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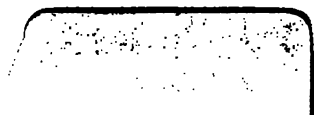
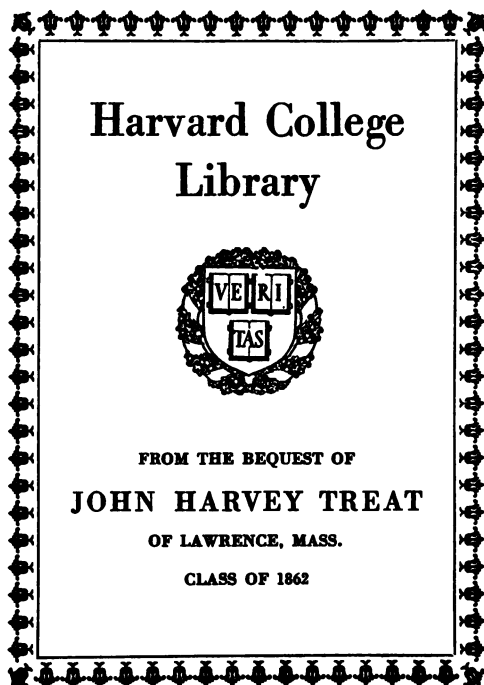
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# The Catholic Encyclopedia

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SUPPLEMENTARY VOLUME

Containing revisions of the Articles in  
Canon Law According to the Code



# THE CATHOLIC ENCYCLOPEDIA

AN INTERNATIONAL WORK OF REFERENCE  
ON THE CONSTITUTION, DOCTRINE,  
DISCIPLINE, AND HISTORY OF THE  
CATHOLIC CHURCH

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FIFTEEN VOLUMES AND INDEX

SUPPLEMENTARY VOLUME

CONTAINING REVISIONS OF THE ARTICLES ON CANON LAW  
ACCORDING TO THE CODE OF CANON LAW OF PIUS X

PROMULGATED BY

POPE BENEDICT XV

By ANDREW A. MACERLEAN

MEMBER OF THE NEW YORK BAR



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# CANON LAW

## THE CATHOLIC ENCYCLOPEDIA

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### SUPPLEMENTARY VOLUME

CONTAINING REVISIONS OF THE ARTICLES IN CANON LAW  
ACCORDING TO THE CODE

The figures within parentheses preceded by C. E. refer to the volume and page of the CATHOLIC ENCYCLOPEDIA where the subject has been dealt with previously; all others refer to the Canons of the Code of Canon Law.

## A

**Abbot** (C. E., I-16), *add*: The territory of an abbot *nullius* (this expression is explained in C. E., I-16c) consisting of less than three parishes is governed by special law, and is not subject to the canonical regulations laid down for abbeys *nullius* (can. 319). An abbey *nullius* can be erected, circumscribed, divided, united, or suppressed only by the supreme ecclesiastical power. The religious chapter of an abbey *nullius* is ruled by its own laws and constitutions (can. 215; 324). An abbot *nullius* must have the canonical qualifications required for the episcopacy; he is nominated and instituted by the pope, unless the right of election or presentation has been granted, in which case he must be confirmed or instituted by the pope (can. 320). At elections he is chosen by the absolute majority of valid votes cast, unless there is a special law requiring a greater number (can. 321). If he must be blessed, he is to receive the blessing from any bishop he selects within three months after receiving the Apostolic letters, unless legitimately prevented (can. 322), otherwise he is by the very fact suspended from his jurisdiction (can. 2402). Abbots *nullius* are included under the canonical term *ordinary* (can. 198), unless expressly excluded; and also under the term *bishop*, when the circumstances or the context do not show a different intent (can. 215). They may not interfere for any reason in the government of their abbey personally or through another before taking canonical possession (can. 322); otherwise they incur a disability, and those admitting them before they have shown the Apostolic letters are by the very fact suspended from the right of electing during the pleasure of the Holy See (can. 2394).

Abbots *nullius* have the same ordinary powers and obligations as a residential bishop in his own diocese. Even though they may have not the episcopal character, yet if they have received the blessing, they can, when necessary, consecrate churches and fixed altars (can. 323), and, within their own territory and during their term of office, impart

all the blessings reserved to bishops, except the pontifical; they can consecrate chalices, patens, and portable altars, with holy oil blessed by a bishop, grant indulgences of fifty days, administer confirmation, and confer first tonsure and minor orders (can. 294), on their own subjects, even secular, and on others showing the requisite dimissorial letters, but orders conferred by them in any other case would be invalid (can. 957). As long as they possess local jurisdiction they can give dimissorial letters to seculars even for the reception of major orders (can. 958).

Abbots *nullius*, the abbot primate, and abbots superior of monastic congregations have the right to assist at oecumenical councils and the right to a decisive, not merely to a consultative, vote (can. 223). Abbots *nullius*, furthermore, should attend the meeting of the local ordinaries of their province which is to be held every five years (can. 292). They can impart the papal blessing with a plenary indulgence in their territory, but only on one of the more solemn feasts each year (bishops on the other hand may grant it twice, one day being Easter Sunday); they can designate and declare a daily perpetual privileged altar, provided there is not one already in the churches of their territories, but they cannot do so in public or semi-public oratories, unless these are united to the parochial church or subsidiary to it, nor in private oratories (can. 914; 916). On being promoted to the government of an abbey *nullius* they must make a profession of faith approved by the Holy See in presence of an Apostolic delegate (can. 1406); if without just cause they neglect to do so they are to be warned and, if the warning is fruitless, they are to be punished even by deprivation of their office and dignity and of the enjoyment of its fruits for the time being (can. 2403).

Regular abbots superior lawfully elected are to receive the blessing of the bishop of the diocese where their monastery is situated within three months after the election (can. 625). If they be

priests and have received the abbatial benediction legitimately, they can confer tonsure and minor orders on their own professed subjects; under any other circumstances, all contrary privileges now being withdrawn, ordination conferred by them would be void, unless they possessed the episcopal character (can. 964). Abbots *nullius*, in their own territory, even if not bishops, use the pontifical insignia with throne and canopy and may lawfully hold divine services there according to the pontifical rite; they may wear the pectoral cross, the ring, and the violet zucchetto, even outside their territory (can. 325). Regular abbots also enjoy these privileges, except the right to wear the violet zucchetto (can. 625).

On the death of the abbot *nullius*, the religious chapter succeeds, unless the constitutions provide otherwise; within eight days it must designate a vicar capitular to rule the abbey until the new abbot is elected; if it does not do so the metropolitan is to appoint one, unless other provision is made in the constitutions (can. 327; 432).

**Abduction** (C. E., I-45b), *add.*: Abjuration of woman, having been separated from her abductor and having attained freedom and safety, consents to accept him as her husband the impediment ceases. As far as the nullity of a marriage is concerned, detention of a woman is equivalent to abduction, that is when a man, in view of marriage, uses force to detain a woman in the place where she lives or to which she went freely (can. 1074).

**Abjuration** (C. E., I-45b), *add.*: Abjuration of apostasy, heresy, or schism must be made before the local ordinary or his delegate and at least two witnesses (can. 2314).

**Abortion** (C. E., I-49), *add.*: Those efficaciously procuring abortion, the mother included, incur excommunication *latae sententiae*, that is inflicted by the law without the formality of a sentence, absolute from which is reserved to the ordinary; and if they be clerics they are to suffer the penalty of canonical deposition (can. 2350). An irregularity from which an ordinary cannot dispense even in the case of his own subjects is incurred by all these culprits and their cooperators (can. 985; 990).

**Abstinence** (C. E., I-67), *add.*: The law of abstinence, which binds all who have completed their seventh year (can. 1254), forbids the eating of flesh meat or soup made from meat, but not the use of eggs, milk, butter, cheese, or of condiments even when made from animal fat (can. 1250). The prohibition against eating fish and flesh at the same meal is now abolished (can. 1251). Abstinence is obligatory only on Fridays, Ember Days, the vigils of Pentecost, the Assumption, All Saints', and Christmas, on Ash Wednesday and the Saturdays of Lent; but the obligation ceases on Holy Saturday at noon, and also on all feasts of precept, except those falling on week-days in Lent; furthermore, if one of the vigils mentioned above falls on Sunday there is no abstinence on the Sunday or on the preceding Saturday, as was formerly the case (can. 1252). There is no mention in the Code of abstinence on the Rogation Days nor of the Advent fast or abstinence as such. The preceding regulations do not affect special indulgences or obligations imposed by vow or by the rules of religious or of communities not bound by vow (can. 1253).

Local ordinaries may appoint special days of abstinence for their own territories on an occasion (can. 1244). They and parish priests can for just

reasons dispense from abstinence in individual cases, persons or families subject to them, even if they are outside of their territories, and also travellers, possessing a domicile or quasi-domicile elsewhere, who happen to be within their territories. An ordinary can dispense the entire diocese or a locality, for reasons of public health or on the occasions of a large gathering of people; superiors of exempt clerical religious have the same power as parish priests over their subjects and those living day and night in their houses (can. 1245).

**Abuse of power or office.**—Abuse of ecclesiastical power should be punished in whatever way seems proper to the culprit's lawful superior, unless a definite penalty is laid down by the canons. Vicars capitular and all others, whether members of the chapter or not, who, personally or through others, remove, destroy, conceal or substantially change any document belonging to the episcopal curia, incur excommunication reserved simply to the Holy See, and, in addition, may be deprived of their office or benefice by the ordinary. Should anyone who is officially entrusted with the compilation or care of the acts, documents, or books of the ecclesiastical curia or of the parish registers, presume to falsify, forge, destroy, or conceal any of them, he is to be deprived of his office and, if circumstances demand it, otherwise severely punished by the ordinary. If anyone betrays his trust in transcribing, transmitting or showing acts, documents, or books, when his services have been lawfully asked, he may be punished by the ordinary by privation of office, suspension therefrom, and a fine as the circumstances demand. Those who endeavour to bribe curial officials or ecclesiastical administrators, judges, advocates, or procurators, are to be suitably punished and compelled to make restitution if they have caused any injury. Anyone increasing the lawfully approved charges for voluntary acts of jurisdiction or for the administration of the sacraments or sacramentals or the legal costs of a suit is to be heavily fined, and if he be a *recidivist* he is to be suspended or removed from his office, as the offence demands, and must restore what he has unjustly obtained. A vicar capitular is by the very fact suspended from the exercise of his sacred orders if he grants dimissorial letters for ordination, without the consent of the chapter when the see has been vacant more than a year, or if, when vacant less than a year, he grants them to anyone except a person obliged to receive orders by reason of a benefice he has received or is to receive or by reason of an office, which the interests of the diocese require to be filled without delay (can. 2404-09).

If a religious superior unlawfully presumes to send dimissorial letters for an ordination to a bishop other than the ordinary of the diocese in which the house to which the candidate belongs is situated, or if he defrauds the diocesan bishop by sending the candidate to another house, or deliberately delays granting the dimissorial letters unto such time as the bishop is away or is not ordaining, he is by the very fact suspended from saying Mass for a month. Religious superiors admitting to the novitiate aspirants who have not the requisite qualifications or without the proper testimonial letters, or allowing a novice to be professed when it is uncertain whether or not he is suited for religious life, should be punished suitably, even by privation of office (can. 2410-11).

A superioress of nuns, even exempt, is to be punished by the ordinary, by privation of office if necessary, if she presumes to spend the dowry of a



nun before her death or omits to notify the local ordinary of the approaching admission of a candidate to the novitiate or to profession. A religious superior, male or female, who, without the visitor's consent, transfers a religious after a visitation to another house, and all fellow-religious, whether superiors or not, who personally or through others, directly or indirectly, induce a religious to remain silent or conceal the truth in any way or not to be frank when interrogated by the visitor, or who under any pretext molest a religious on account of the information he has given to the visitor are to be declared by the visitor incapable of holding any office entailing the government of others, and the superior is to be deprived of his position. If a mother superior violates the canonical rights of a subject to confess to a priest other than the ordinary chaplain she is to be admonished by the local ordinary; if she repeats the offence she is to be deprived of her office by the ordinary, who is to inform the Sacred Congregation for Religious (can. 2412-14). If the superior of an exempt religious house or church on being admonished does not correct abuses that have crept in, the local ordinary must immediately inform the Holy See. In houses not fully established, if abuses have crept in and scandalize the faithful, the local ordinary can in the meantime act by himself (can. 617).

**Acta Apostolicæ Sedis**, a Roman monthly publication, successor to the "Acta Sanctæ Sedis." All laws of the Holy See are promulgated as a general rule by publication in the "Acta Apostolicæ Sedis" (can. 9). The Code was published in 1917 as a special part II of vol. IX of the "Acta."

**Administration of Ecclesiastical Property** (C. E., I-144), *add*: To secure the proper administration of church property, each ordinary is to appoint in his episcopal city a council, consisting of himself as president and two or more suitable men, skilled if possible in civil law, chosen by the ordinary, after consulting the chapter, unless otherwise provided for. No one, however, except by Apostolic indult, may be an administrator if he is related to the ordinary in the first or second degree of consanguinity or affinity. In administrative acts of greater moment the ordinary is to consult the members of the council, who, however, can only advise, unless in special cases expressly provided for in the common law, or where the terms of a foundation require their consent. The members must swear before the ordinary to carry out their duties faithfully and diligently (can. 1520). In addition to this diocesan council, the ordinary is to name a council of prudent careful men of good character to administer the property belonging to church or holy place, if an administrator has not been provided by the law or the terms of the foundation. They are to hold office for three years only, unless circumstances dictate otherwise, and must swear before the ordinary or the vicar forane to fulfil their duties faithfully (can. 1521-22). After expressly or tacitly accepting office they are held to restitution, if by abandoning it arbitrarily they injure the church (can. 1528). They must exercise the degree of care that a prudent man would show in regard to his family property; hence they are to see that the church property is neither destroyed nor injured; that the requirements of the canon and civil law are observed and the conditions imposed by the founder, the donor, or the lawful authorities are fulfilled; that the income is duly collected, deposited, and spent rightly, that

the surplus of the church money is, with the ordinary's consent, invested or deposited for the benefit of the church; that books showing the receipts and expenses are kept accurately; that all documents and papers dealing with the church's rights in the property are in good order and deposited in the archives of the church or in another convenient and suitable place, and that an authentic copy of these, if it is convenient, is placed in the curial archives (can. 1523).

Those who are hired to work in connexion with church property must be paid fair wages; they must have suitable time for their religious duties; they must not be forced to neglect their domestic duties, nor be overworked or employed at what is unsuited to their age or sex (can. 1524).

Administrators, clerical or lay, of any church, including the cathedral, or of a pious place canonically erected or of a confraternity, must each year, make an accounting to the local ordinary, any custom to the contrary being reprobated. If by any particular law the accounting is to be made to others, the ordinary, or his delegate, must be admitted with them. Administrators must not take part in any litigation in the name of the church without written permission of the ordinary or, in urgent cases, at least, of the vicar forane, who must at once inform the ordinary. Unless they have first asked permission of the local ordinary, which, if given, is to be in writing, administrators act invalidly in going beyond the limits of ordinary administration. The church is not responsible for contracts entered into by them without the competent superior's permission, except when and in as far as it adopts them (can. 1525-27).

**Administrator** (C. E., I-143), *add*: An Apostolic administrator, if appointed permanently, has the rights, honours, and obligations of a residential bishop; if appointed temporarily, he has the rights and duties of a vicar capitular, and, if the see is not vacant, can visit the diocese according to law, and is not obliged to say the episcopal Mass for the people; if he is not a bishop, he has, while in his own territory and holding office, the honorary privileges of a prothonotary Apostolic *de numero participantium*; if he is a bishop who, on being transferred to a new diocese, retains the administration of the old, he has when in the latter diocese a right to all the honorary privileges of a residential bishop (can. 315). If he is appointed when the see is not vacant the jurisdiction of the bishop and his vicar general is suspended, yet the administrator must not meddle in affairs relating to the bishop himself, or proceed against the vicar-general, or concern himself with the acts of the previous administration (can. 316). If his jurisdiction is impeded or if he dies, the Holy See is to be notified at once; meanwhile the regulations for the government of vacant sees are to be followed, if the diocese is vacant or the bishop incompetent, otherwise the bishop is to take charge of affairs, unless the Holy See has provided differently (can. 317). The administrator's jurisdiction does not cease with the death of the pope or the bishop (can. 318).

**Adoption** (C. E., I-148) *add*: Canon law follows civil law in those countries which hold adoption to be a bar to either licit or valid marriage (can. 1059; 1080).

**Adult**.—In the matter of baptism canon law considers as adults all those who have attained the use of reason (can. 745).

**Advocates.**—In a criminal trial the accused should always have an advocate, either chosen by himself or appointed by the judge. In contentious cases where there is question of minors or the public welfare, the judge should appoint one if either party has none, and, should circumstances so require, he may appoint an extra advocate for either party. In any other case a party may dispense with the services of an advocate unless the judge deems it necessary for him to have one (can. 1655). The same person may act both as advocate and procurator (can. 1656). An advocate should be a man of good repute, not under twenty-one years of age, and unless in exceptional circumstances or in case of necessity must be a Catholic; a religious may act as such with leave of his superior, but only if his order is involved in the suit and if his constitutions do not forbid him (can. 1657). For recognition an advocate requires the approbation of the ordinary and of the papal legate, if the latter is acting as judge. If the suit is between members or provinces of the same exempt clerical order or monasteries of the same congregation, the advocate must be chosen from the order and be approved by the judge; in other cases a religious of a different order may be appointed (can. 1658). Before acting as such an advocate must be commissioned by a litigant or by the judge, and the fact noted in the record of the case (can. 1661); he may be dismissed from the suit by his client, who, however, if the case has begun, must notify his adversary and the judge (can. 1664). If one of the parties is poor the judge is to appoint an advocate from his court, and may compel him to act gratuitously under penalty even of suspension from office (can. 1916).

**Affinity** (C. E., I-178).—Affinity is now a relationship arising only out of a *valid* marriage, whether consummated or *not*; previously it arose also out of illicit intercourse. It exists only between the man and the woman's blood relatives and between the woman and the man's blood relatives; the line and degree of the blood relationship are those adopted in computing the line and degree of affinity (can. 97). It is a diriment impediment to any degree in the direct line, but only to the second degree inclusive in the collateral (can. 1077); in the latter case it is deemed a minor impediment (can. 1042). It is multiplied as often as the impediment of consanguinity from which it proceeds is multiplied, and also by successive marriage with deceased spouse's blood relatives (can. 1077).

**Age, CANONICAL** (C. E., I-207).—To be bound by ecclesiastical law one must be seven years old, unless it is otherwise expressly stated; below that age one is termed child, baby, or infant (*puer, parvulus, infans*), and is not held responsible; above it one is presumed to have the use of reason. Puberty begins in males at fourteen complete, in females at twelve complete. Regarding the imputability of crimes, unless otherwise stated, youth diminishes the imputability in proportion as the person is nearer to infancy (can. 2204). Those below the age of puberty are excused from canonical punishments that are incurred independent of a judicial sentence, and should be corrected like young children at school rather than by censures or other grave vindictory penalties; but those who have reached the age of puberty and induce them to violate the law or concur with them in a crime incur the penalties attached (can. 2230; 2209). Majority is reached on completing the

twenty-first year (can. 88). The law of abstinence binds after the age of seven; that of fasting after twenty-one, ending with the fifty-ninth complete (can. 1254). Marriage is invalid if contracted by males under sixteen, or females under fourteen (can. 1067). One must be fifteen years of age to begin a novitiate (can. 555); and sixteen for first, and twenty-one for perpetual simple or solemn profession (can. 572-73). Bishops (can. 331), vicars capitular (can. 434), vicars general (can. 367), diocesan *officiales* (judges; can. 1573), canons penitentiary (can. 399), must be thirty years old; a master of novices must be thirty-five years old, with ten years' profession, but his associate may be thirty, with five years' profession (can. 559); confessors of nuns forty years, except for just reasons (can. 524). Unless their rule requires a greater age, higher superiors must be at least ten years professed, counting from the first profession, generals or the superiors of a monastery of nuns forty years of age; other higher superiors should be thirty at least (can. 504). Sponsors at baptism and confirmation should have reached fourteen, unless the minister believes there is a just excuse (can. 766; 796). The obligation of confession begins with the use of reason. Sub-deacons must be at least twenty-one years old, deacons twenty-two, and priests twenty-four (can. 975).

**Altar** (C. E., I-347), *add*: In the liturgical sense a fixed altar is an upper table joined to supports with which it was consecrated. A portable altar is a stone consecrated alone, or that stone with a support not consecrated at the same time. In a consecrated church at least one altar, especially the high altar, should be fixed; in a blessed church all the altars may be portable; the support of a fixed altar or, at least, the sides or columns supporting the table should be of stone. The consecration of a fixed altar without the dedication of a church should preferably take place on a Sunday or holy day of obligation, though it may be performed on any day (can. 1197-99). Every fixed altar should have its own name or title; the chief title of the high altar should be that of the church; the title of a movable, but not of a fixed altar, may be changed with the ordinary's consent. No altars of the beatified can be dedicated without papal indult. An altar may not be used for any profane purpose, nor may a corpse be interred within a metre from it, otherwise Mass may not be celebrated there till the body has been removed (can. 1201-02).

An altar may be consecrated without the consecration of a church; but when the church is being consecrated, the high altar, or if that has been done already, a secondary altar should be consecrated (can. 1165).

Bishops, abbots or prelates *nullius*, vicars Apostolic, prefects Apostolic, and the higher superiors of exempt religious orders can designate and declare one altar privileged daily and perpetually, provided there is not another in their cathedral, abbey, collegiate, conventual, parish or quasi-parish churches, but not in public or semi-public oratories except when united to or a subsidiary of the parish church. All altars of a church are privileged on the days during which the Forty Hours' Adoration is held. To indicate that an altar is privileged nothing should be inscribed on it except: *altare privilegiatum* (privileged altar), with a word indicating whether the favour has been granted perpetually or temporarily. It is forbidden to ask a larger stipend for Masses said at a privileged altar than for those said elsewhere (can. 916-18).



**Apostasy** (C. E., I-624).—*Penalties*.—All apostates from the Christian Faith incur excommunication by the very fact of their crime, and unless they repent on being warned, they are to be deprived of all ecclesiastical benefices, dignities, pensions, offices, or posts, if they have any, to be declared infamous, and if clerics, on being warned again are to be punished by canonical deposition. Absolution from the excommunication is specially reserved to the Holy See; but if the crime of apostasy is brought to the external forum of the local ordinary in any way, he, but not his vicar general without a special mandate, may by his ordinary power absolve the penitent in the external forum, after obtaining the necessary abjuration (q. v.) and observing the other legal requisites. Having been thus freed from the censure, the penitent may be absolved from his sin by any confessor (can. 2314). Those who receive, favour or defend apostates no longer incur this reserved censure, but it is incurred by the publishers (not the printers as heretofore) of works of apostates defending apostasy, heresy, or schism (can. 2318).

Apostates from religious life are those who being professed with simple or solemn perpetual vows leave their religious house illegitimately with the intention of not returning, or having gone out with permission do not return in order to withdraw themselves from religious obedience. The evil intent is presumed by the law if within a month the religious does not return or inform the superior of his intention to return (can. 644). Superiors are to seek them out and if the culprits return penitent they are to be taken in; the local ordinary is to attend cautiously to the return of an apostate or fugitive nun, and in case of an exempt monastery the regular superior also. Apostates from religious life, by the very fact of their crime, incur excommunication reserved to their higher superior, or if the order is lay or non-exempt, to the local ordinary; they are excluded from legitimate ecclesiastical acts and deprived of the privileges of their order; if they return they are deprived perpetually of active and passive voice, and should be suitably punished by the superiors in accordance with the rules (can. 2385).

A fugitive or runaway religious is one who leaves his house without the superior's leave, but with the intention of returning to the religious life. He is by the very fact of his crime deprived of his office, if he held any in his order, and, if ordained, incurs suspension reserved to his own higher superior; when he returns he is to be punished according to the rule, or if the rule has made no provision the superior should inflict suitable punishment (can. 2386).

**Apostolicæ Sedis Moderationi** (C. E., I-645), *add*: All previous pontifical censures and penalties contained in penal documents have been abolished, except those mentioned in the Code (can. 6).

**Apparitor** (C. E., I-650), *add*: Ordinarily court apparitors and cursors are to be laymen: one person may hold both positions simultaneously. Their nomination, suspension, and revocation are governed by the rules for notaries (can. 1591-92).

**Appeals** (C. E., I-653).—The law does not allow an appeal from a decision of the pope or the Apostolic Signature; from the decision of a judge delegated by the Holy See to try a case, if the rescript contained the clause *appellatione remota* (without right of appeal); from a judgment that is null and void; when the affair has been once defini-

tively settled by the court; from a definitive judgment based on an oath decisive of the suit; from a judicial decree or an interlocutory judgment not having definitive force, unless joined with an appeal from a definitive judgment; from a judgment in a case in which the law urges a very quick decision; from a judgment against a contumacious person who has not purged himself from his contumacy; or from a judgment against one who has expressly renounced in writing his right of appeal.

*Time*.—Appeals must be made before the adjudicating judge within ten days after notice of the publication of the decision (can. 1881), and must be prosecuted before the judge of appeal within a month (unless the judge appellee has granted an extension). It is necessary and sufficient for the appellant to ask the appellate judge to amend the decision, at the same time presenting a copy of the judgment and of the notice of appeal, which he shall have shown the judge appellee. If he cannot obtain a copy of the judgment, the time which is allowed for appealing ceases to run; the appellate judge is to be notified and he must compel the judge appellee to give it as soon as possible (can. 1884). If one of the litigants dies or changes his status or resigns from the office in virtue of which he was acting (can. 1733), within the time for appealing, but before the appeal has been interposed, those who are interested should be informed of the judgment and the time for appeal begins to run from the day on which they are notified; if the change happens after notice of appeal has been given, the parties interested are to be informed, and from that moment the time for continuing the appeal begins to run (can. 1885). An appeal made by the plaintiff may be utilized by the defendant and vice versa. If one of the litigants appeals against part of the judgment, his adversary may appeal against other parts of it, even though he had already lost his right to appeal by lapse of time; and he can do this also with an understanding that he is to withdraw if his opponent does likewise. If the appellant attacks only certain parts of the judgment he is considered to have agreed to the remainder, but if he specifies none he is deemed to have appealed against the entire decision (can. 1887). If one of several plaintiffs or defendants appeals, all are considered to have appealed, if what is sought is not multiple, or affects them jointly, but if the judge of appeal confirms the decision of the lower judge, the actual appellant alone has to bear the expense (can. 1888). All appeals suspend judgments unless the law states otherwise; however, in a case of grave necessity a provisional execution may be allowed, if an adequate bond is lodged in court as security against loss in case the appeal is upheld (can. 1889; 1917). The lower court must supply a certified copy or the original documents of the proceedings to the judge of appeal, who can deal only with the case exactly as presented to the lower court, though additional proofs of the matter involved may be introduced (can. 1891).

The remedy against a decision which is null and void is not an appeal, but a complaint of nullity (C. E., I-655c). A judgment is voidable when the citation was illegal, or when no reasons for the decision were given by the judge (excepting decisions of the Apostolic Signature), or where the requisite signatures, dates, or name of place were omitted. In this case the complaint with an appeal may be made within ten years, or the complaint alone within three months from the publication of the judgment; the application is to be made to the judge who heard the case, but if the applicant

reasonably mistrusts him he can demand to be heard by another judge of the same standing (can. 1896).

Though usually the judge of appeal or of second instance is the metropolitan, yet if the latter has acted as trial judge the judge of appeal will be an ordinary whom he has selected once for all for that purpose, with the approval of the Holy See. If the archbishop has no suffragans or if the trial judge was a local ordinary immediately subject to the Holy See, the appeal is to be made to a neighbouring metropolitan. In the case of exempt religious an appeal is made from a decision of the provincial to the general, or from the local abbot to the head of the monastic congregation (1594).

Appeals against episcopal decrees are to be taken to the various Roman Congregations, not to the Sacred Rota (can. 1601). The defender of the bond must appeal against the decision of the court of first instance annulling a marriage (can. 1986); it is to be remembered that the question of nullity of marriage never becomes definitively decided, and may always be reopened when new evidence is adduced (can. 1899). If a judge declares himself relatively incompetent to adjudicate, an appeal against his decision may be taken within ten days to a higher tribunal (can. 1610). There is no distinct appeal on the question of costs, but the aggrieved party may apply within ten days to the judge allowing them, who can re-open the question (can. 1913).

**Arbitration** (C. E., I-682).—To avoid litigation disputes may be settled by arbitration, on the basis either of law or of equity; but those who are excommunicated and infamous after declarative or condemnatory sentence cannot act validly as arbitrators, neither can laymen act in ecclesiastical cases; religious must not undertake the office without permission of their superior. Arbitration is invalid in criminal cases or in contentious suits involving the validity of marriage, or concerning beneficiary titles (though in this case the lawful authorities may authorize arbitration), or spiritual matters mixed with temporal; if, however, the question concerns church temporal goods and things which, though connected with spiritual matters, can be considered apart, arbitration is lawful, but the regulations concerning the alienation of ecclesiastical property must be carefully observed (can. 1929; 1931; 1927).

**Archbishop** (C. E., I-69; X-244), *add*: An archbishop can visit a suffragan diocese canonically only when the bishop has neglected to do so, but he must first obtain the approval of the Holy See (can. 274); formerly it was first necessary to have the matter discussed at a provincial council and such a course of action approved. Concerning appeals from an archiepiscopal court of first instance, see **APPEALS**. An archbishop is obliged within three months after his consecration, or, if he has already been consecrated, after his canonical appointment to an archdiocese to seek the pallium personally or by proxy from the pope (can. 275). If he loses his pallium or is transferred to another see he requires a new one; he may never dispose of a pallium and if he has several they must all be buried with him (can. 278-79; cf. C. E., XI-427).

**Archconfraternity** (C. E., I-693), *add*: By aggregation all the indulgences, privileges and other communicable spiritual favours which have been granted by the Holy See to the aggregating association, directly and by name, and all to be granted

thereafter are communicated to the aggregated associations, unless the contrary is stated by the Holy See. This communication, however, gives the archconfraternity no rights over the aggregated associations. For valid aggregation an association must have been canonically erected and must not have been aggregated to any other archconfraternity or pious union; the aggregation must be perpetual; the diploma of aggregation is to be sent gratis, even voluntary payment being forbidden, except what would cover necessary expenses; the indulgences, privileges, and other spiritual favours communicated must be mentioned in a document, approved by the ordinary of the place where the archconfraternity is established and sent to the aggregated body; finally the aggregation must be made with the written consent and testimonial letters of the local ordinary (can. 722-23).

The title archconfraternity, even honorary, can be conceded only by the Holy See, whose permission must also be obtained to change the location of the archconfraternity.

**Archives**, ECCLESIASTICAL (C. E., I-696), *add*: In each diocesan curia the bishop is to appoint a priest as chancellor, whose chief duty is to keep the diocesan documents arranged chronologically and to compile an index of them. The chancellor is, by the fact of his appointment as such, a notary; if necessary he may have an assistant or vice-chancellor. The bishop may appoint notaries, whose signatures will suffice for the certification of documents; in case of necessity they may be laymen, but only a priest can act as notary in clerical criminal cases. The chancellor and notaries must be men of good repute and above all suspicion. They may be removed or suspended by the bishop or his successor or superior, but not by the vicar capitular without the consent of the chapter (can. 372-73). It is the duty of the notaries to draw up official accounts of the judicial proceedings and sign the same at the end, indicating the place, day, month, and year; to show the original documents in the register to those legitimately seeking to inspect them, within the limits laid down by the law, and to authenticate copies of the originals by their signature. A notary, however, may draw up official documents only in the territory of the bishop who appointed him and in a matter to which he has been legitimately assigned (can. 374). Bishops are to provide a safe convenient archive or place, in which all writings and documents relating to the spiritual and temporal affairs of the diocese are to be kept arranged in order. An inventory or a catalogue of the contents of the archive with an abstract of each document should be made with diligence and care (can. 375). In the first half of each year, the documents of the preceding year and others that may have been overlooked are to be added; the ordinaries should investigate carefully to see if any papers have been removed or displaced, and should use all necessary means to have the documents returned (can. 376). The place in which the archives are kept is to be locked and no one must enter without the leave of the bishop, or of the vicar-general and the chancellor. The chancellor alone should have the key (can. 377). Documents may not be taken from the archives without leave of the bishop or vicar-general and must be returned at once after three days unless the ordinary extends the time a little. Any one removing a document from the archives must give the chancellor a written receipt for it (can. 378).

The bishop must have another secret receptacle or at least an immovable safe or a carefully locked



press or drawer in the document room, in which he is to preserve all secret papers most carefully. Documents relating to criminal cases of morality are to be burnt as soon as possible, after the culprit has died or as soon as ten years have elapsed since the sentence of condemnation; but a synopsis of each case with the text of the final judgment is to be kept. An inventory or catalogue of these secret archives must be kept as described above. There are to be two different keys of the receptacle in which these documents are kept, one to be retained by the bishop or Apostolic administrator, the other by the vicar-general or, if there is none, by the chancellor of the curia. If necessary the bishop or Apostolic administrator, having obtained the second key, may, without anyone else being present, open and examine the archive, which he must lock again with the two keys (can. 379).

As soon as a bishop takes possession of his see he must appoint a priest to take care of the episcopal key during a vacancy or if his actions are impeded by captivity, relegation, exile, or canonical disability (can. 380). If there is no Apostolic administrator in the diocese, and the exercise of episcopal jurisdiction is hindered by the bishop's captivity, relegation, exile, or canonical disability, the priest appointed by the bishop is to give the key to the ecclesiastic delegated by the bishop to rule the diocese; but he is to retain it if the vicar-general has been so delegated; if the see should be vacant or the person or persons delegated by the bishop to rule should all die or be likewise impeded, and the chapter of the cathedral has appointed its vicar to assume control of the diocese with the power of a vicar capitular (can. 429), the priest must give the key to him as soon as he is designated; and the vicar-general or the chancellor is to send his key at the same time to the first dignitary of the chapter or to the diocesan consultor who has held office longest. Before the keys have been transferred, as just stated, the vicar-general or the chancellor and the delegated priest mentioned above, are to place the curial seals on the safe or receptacle (can. 381). The archive or safe is never to be opened nor its seals removed except in case of necessity, and then by the vicar capitular in the presence of two canonical or diocesan consultors, who must see carefully that no paper is removed; only the vicar capitular may look at the documents, but this must be done in the presence of the canons or consultors; moreover, he must never remove anything. When the inspection is terminated the archive is again to be sealed. When the new bishop assumes control, if the seals have been broken or the archive opened, the vicar capitular is to tell him the reason (can. 382).

The bishop is to see that duplicate inventories or catalogues are made of the archives of the cathedral, collegiate, and parochial churches and also of confraternities and holy places; one copy is to be kept in its proper place and the other deposited in the diocesan archives (can. 383). Parish priests are to send the episcopal curia at the end of each year, a certified copy of all the parochial books except the census returns (can. 470); and administrators of ecclesiastical goods are to send a descriptive inventory of the property entrusted to their care, noting the values, and are to call attention to any changes in the property; moreover, they must send the curia certified copies of the documents relating to the ownership of the property, if it can be done conveniently (can. 1522; 1523). These documents may be borrowed only in accordance with the regulations gov-

erning the diocesan archives; those that are not secret may be examined by anyone interested, who may, moreover, obtain a copy of them at his own expense. Curial chancellors, parish priests, and other custodians of archives in communicating documents or in making copies of them are to observe the rules laid down by the church authorities and in case of doubt are to consult the local ordinary (can. 383-84).

Vicars Apostolic and prefects Apostolic are to observe the same rules as bishops in the matter of the archives, due allowance being made for difference of persons and locality (can. 304).

Vicars capitular and all others, whether members of the chapter or not, who, either personally or through another, remove or destroy or hide or substantially change any document belonging to the episcopal curia, by that very fact incur excommunication reserved simply to the Holy See and may be punished by the ordinary by privation of their office or benefice (can. 2405). If one who is obliged by his office to draw up or preserve curial documents or books or parish books presumes to falsify, corrupt, destroy, or cancel any of them, he is to be deprived of his office and subjected to other serious punishments by the ordinary according to the gravity of his crime. The ordinary may also deprive or suspend and penalize anyone whose duty it is to transcribe for, or transmit or show to, anyone legitimately asking for any of the acts, documents, or books, if he in any way wilfully betrays his trust (can. 2406).

**Assessors** (C. E., I-799), *add*: A judge may utilize the services of two consulting assessors, who shall be selected from the synodal judges and must swear to fulfill their duty faithfully (can. 1575; 1621).

**Associations, Pious** (C. E., II-5).—The Code under this heading treats of secular third orders, confraternities, and pious unions. Associations of the faithful erected for the performance of pious or charitable works are called pious unions; those constituted as organic bodies are called sodalities; and sodalities erected to foster public worship are called confraternities (can. 707). The last-named can be constituted only by a formal decree of erection; pious unions, however, require only the approbation of the ordinary and, even if they are not recognized as moral persons, may, nevertheless, be granted spiritual favours, especially indulgences (can. 708). When various pious associations are assembled as such with their crosses or banners and habits or insignia, the order of precedence is, as a general rule: third orders, archconfraternities, confraternities, primary pious unions, other pious unions, but in processions of the Blessed Sacrament the Confraternity of the Holy Eucharist precedes the archconfraternities (can. 701). Associations are not recognized in the Church unless erected or approved by lawful ecclesiastical authority; that authority is the pope or the local ordinary, except where by Apostolic privilege the right of institution is reserved to others. If this privilege is granted the erection of the association would, nevertheless, be invalid without the written consent of the ordinary, unless otherwise stated in the indulgent; but the consent of the ordinary to the erection of a religious house suffices also for the erection in that house or in its church of an association belonging to the religious order and not yet organically constituted. Neither the vicar-general by his ordinary authority nor the vicar capitular can erect associations or authorize their erection or aggre-



gation. Those who by Apostolic privilege may erect associations must not charge anything for the diploma of erection beyond the necessary expenses (can. 686).

Associations must not take frivolous or incongruous titles or those expressive of devotions not approved by the Holy See (can. 688). Their statutes must be examined and approved by the Holy See or the local ordinary; the latter can supervise and correct statutes not confirmed by the Holy See (can. 689). All associations, even those erected by the Holy See, are confided to the jurisdiction and supervision of the local ordinary, unless otherwise stated; but in case of those erected, in virtue of an Apostolic privilege, by exempt religious in their churches, the ordinary is forbidden to interfere in matters of internal discipline or spiritual direction (can. 690). An association legitimately erected may, unless it is otherwise expressly stated, hold and administer temporal property, subject to the authority of the ordinary, but not of the parish priest in whose parish it is established, unless the ordinary has so ordered; it must, moreover, make a yearly statement of its administration to the ordinary, as prescribed by the general law. It may receive offerings and apply them to its pious purposes, but it must not solicit alms, unless its statutes so provide or necessity urges, and the local ordinary consents; if collections are to be made outside of the territory the written consent both of the local ordinary and of the bishop of the other place are necessary. The association must account to the local ordinary concerning the offerings and alms (can. 691).

One who has been validly admitted to an association can share in its rights, privileges, and spiritual favours until he is lawfully expelled. Non-Catholics and members of condemned societies or those under notorious censure and in general public sinners cannot validly be received as associates. A person may be enrolled in several associations, but not in two third orders except by Apostolic indult. Those who are absent may not be enrolled in organically constituted associations; those who are present can be enrolled only if they know and consent. A religious may join any pious association, unless his superior judges that its regulations do not harmonize with the religious rule and constitutions, but those bound by perpetual or temporary vows cannot be members of third orders, even if they had previously been enrolled; however, if such persons return to the world lawfully, freed from their vows, their former membership revives. If a person has been received into

an association his name should be entered on the roll, and, moreover, must be entered, for valid membership, if the association has been erected as a moral person (can. 693-94). No payment direct or indirect must be exacted for reception, except what is laid down in the lawfully approved statutes, or is expressly allowed by the ordinary in favour of the association, under special circumstances. No legitimate member may be expelled, unless for just cause in accordance with the statutes. Those who have joined forbidden societies or are notoriously censured or have become public sinners, are, after a warning, to be expelled, in accordance with the statutes, but they may appeal to the ordinary. Even if the statutes have not expressly provided for it, local ordinaries, and the religious superiors in the case of associations erected by religious in virtue of an Apostolic indult, have the power to dismiss (can. 695-96).

Associations legitimately erected have the right to hold general meetings, pass rules, and elect officers and administrators of their property, in accordance with their statutes and canon law. The general meeting should be presided over by the bishop or his delegate, who, though without power of voting, is to approve or reject the officers elected. The ordinary or his delegate should be notified in time about extraordinary general meetings, otherwise he may forbid the meeting or annul its decrees (can. 697; 715). As a general rule, the local ordinary nominates the director and chaplain of an association, including those erected by religious outside their own churches; but his consent only is required if a secular priest has been chosen by a religious superior as director or chaplain of an association erected in his own church. The director and chaplain, who may be the same person, can bless and impose habits and scapulars; they may be changed for just reasons by the person who appointed them or by his successor or superior (can. 698). For grave reasons the local ordinary may suppress any association, except those erected by the Holy See, but there is always a right of appeal to Rome against his action (can. 699).

**Auditors** (C. E., II-70), *add*: There are also auditors for diocesan and religious tribunals; the former elected as far as possible from the synodal judges, the latter necessarily from members of the order (can. 1581). If an auditor of the Rota is suspected of bias an objection against him may be lodged with the Apostolic Signature; but with the principal judge in the case of any other auditor (can. 1614).

## B

**Banns of Marriage** (C. E., II-256), *add.*: If, after reaching the age of puberty one or both of the parties intending marriage has resided for six months elsewhere than in the parish of the priest who has the right of assisting at the marriage, the parish priest is to notify the ordinary, who may require the publication of the banns in that place or take other steps to investigate the status of the parties. If the sojourn was shorter and it is suspected that an impediment was contracted, the parish priest is to refer to the ordinary, who must not allow the marriage till the suspicion is removed (can. 1023). The banns are to be published on three successive Sundays or other feasts of obligation during Mass or other Divine service attended by a large congregation (can. 1024); but the local ordinary may, in his own territory, substitute for the usual method of publication, the affixing of the names of the parties on the doors of the parochial or other church for the space of eight days, which must include two days of precept (can. 1025). In case of marriages for which a dispensation on account of disparity of worship or mixed religion has been granted, the banns must not be published, unless the local ordinary, in the absence of scandal, judges it prudent to allow it, but no mention must be made of the religion of the non-Catholic (can. 1026). Without a reasonable cause the parish priest should not assist at the marriage until the investigations have been completed and until three days have elapsed from the last publication of the banns; on the other hand, if the marriage does not take place within six months the publication must be repeated, unless the ordinary decides otherwise (can. 1030).

The local ordinary of the parties, in the exercise of his discretion, may for a just cause dispense from the publication of the banns to be made in his own or in another diocese; if the parties have more than one ordinary, the one in whose diocese the marriage is to take place has the right of dispensation; but if the marriage is to be celebrated outside of their dioceses, either of their ordinaries can dispense (can. 1028). If another parish priest has investigated the status of the contracting parties or has published the banns, he should at once forward the result of his inquiries in a certified document to the parish priest who is to assist at the marriage (can. 1029). Except in case of necessity a parish priest must not assist at the marriage of those who have no domicile or quasi-domicile, unless he has obtained permission to do so after referring the matter to the local ordinary or to a priest delegated by him (can. 1032).

In case of doubt about the existence of any impediment, the parish priest should investigate the matter carefully, examining at least two trustworthy witnesses under oath—provided there is no question of an impediment that would injure the reputation of the parties contracting—and, if necessary, the parties themselves; he is to proceed with or finish the publication whether the doubt arose before beginning or completing the publication; if he prudently judges that the doubt has not been dispelled he must not assist at the marriage

without consulting the ordinary. Should an undoubted impediment, however, be discovered, then, if it is occult, he should continue the publication and refer the case to the local ordinary or the sacred penitentiary, without revealing the names of the parties; if the impediment is public and has been discovered before beginning the publication, the banns must not be published until the impediment is removed, even if the pastor knows that a dispensation for the internal forum only has been granted; if the discovery was made after the first or the second publication the parish priest is to continue the publication, and refer the matter to the ordinary (can. 1031).

**Baptism** (C. E., II-269).—*Minister*.—A person who is absent from his place of domicile or quasi-domicile should be baptized solemnly in his own parish by his own pastor, if it can be done easily and without delay; otherwise any pastor may perform the ceremony in his own parish (can. 738); no one, however, may administer solemn baptism outside his own territory (can. 739). Where there is no parish or quasi-parish the local regulations and received customs should be followed in deciding what priest is to act as minister and within what district (can. 740). Deacons are extraordinary ministers of solemn baptism; they may not exercise their power without leave of the local ordinary or the parish priest, which should be granted if there are good reasons and which may be presumed in case of necessity (can. 741). In conferring private baptism, one or two witnesses should be employed, if possible, so that, if necessary, the fact of baptism can be established (can. 742). An important change has been made by can. 768 which declares that spiritual relationship from baptism arises between the minister and the person baptized; formerly it extended to the parents also. Parish priests are to see that the faithful, especially midwives, physicians, and surgeons, know how to baptize in case of necessity (can. 743). The baptism of adults, by which is meant of those who have attained the use of reason (can. 745), should be referred to the local ordinary, in order that, if he so desires, it may be administered by him or his delegate in a more solemn manner (can. 744). It is recommended that priests who baptize adults (by which is meant those who have attained the use of reason), and the adults themselves, if in good health, should be fasting, and the newly-baptized adult is ordered to assist immediately at Mass and to receive Holy Communion, unless grave and urgent reasons prevent him (can. 753).

*Subject*.—Infants of infidels, and ordinarily of two heretical or schismatical parents, or of two Catholic parents who have apostatized or fallen into heresy or schism, may be lawfully baptized, when there is no danger of death, provided arrangements are made for their Catholic education, if the parents or guardians or at least one of them consents, or if the child has no father, mother, grandparents and guardian living, or if they have lost their rights over him or are absolutely un-



able to exercise them (can. 750-51; C. E., II-271b). Adults are not to be baptized except with their knowledge and consent and after proper instruction; but in danger of death, if there is not time to instruct them in the principal mysteries, they may be baptized if they give signs of assent and seriously promise to observe the commandments. If they are unable to request baptism, but either formerly or in their present condition probably manifested the intention of receiving it, they should be baptized conditionally; should they recover and a doubt concerning the validity of the baptism remain, conditional baptism is to be administered (can. 752). An abortive fetus, no matter when born, is to be baptized absolutely if it is certainly alive, or conditionally if life is doubtful (can. 747). A deformed fetus must always be baptized at least conditionally; if in doubt whether there is one human being or more, one is to be baptized absolutely, the others conditionally (can. 748).

*Ceremonies.*—The local ordinary may for grave and reasonable cause allow the ceremonies of infant baptism to be used in baptizing adults (can. 755; C. E., II-273d). A child is to be baptized according to its parents' rite, but if the parents are of different rites, according to the father's; if only one of the parents is a Catholic, the ceremony should be according to his or her rite (can. 756). Private baptism may be administered in danger of death; if it is given by a minister who is neither a priest nor a deacon, only the essentials are to be employed; if by a priest or deacon, the ceremonies that should ordinarily follow the actual baptism are to be performed if there is time. If there is no danger of death the local ordinary cannot permit private baptism, unless in baptizing adult heretics conditionally, and except in this case all ceremonies that have been omitted for any reason in conferring baptism must be supplied as soon as possible in the church. With the same exception, ceremonies omitted in a baptism must be supplied if it is re-administered conditionally; when not so omitted the priest is free to repeat them in the conditional ceremony (can. 759-60). If the parents do not wish to give the child a Christian name the priest is to add a saint's name and record both in the baptismal register (can. 761).

*Sponsors.*—There should always be a sponsor at private baptisms, if he can be easily secured (cf. C. E., II-273a); if none was present there should be one later when supplying the ceremonies. In the former case, but not in the latter, the person acting as sponsor contracts spiritual relationship. In repeating baptism conditionally, the sponsor of the first baptism should if possible be employed; except in this case no sponsor is needed at conditional baptisms. When baptism is repeated conditionally, neither the sponsor who acted at the first baptism, nor he who acts at the second, contracts spiritual relationship, unless the same person was employed in both cases (can. 762-63). The conditions requisite for acting as sponsor have been made stricter by the Code (cf. C. E., II-272d). For validity, a sponsor must: (a) be baptized, have attained the use of reason, and intend to assume the obligation; (b) belong to no heretical or schismatic sect, nor be excommunicated by a condemnatory or declaratory sentence, nor be legally infamous or debarred from legal acts, nor be a deposed or degraded cleric; (c) nor be the father or mother or spouse of the person to be baptized; (d) be nominated by the person to be baptized or his parents or guardians, or lacking these, by the minister; (e) physically hold or

touch, personally or by proxy, the subject at the moment of baptism or immediately take him from the sacred font or from the minister's hands. To act licitly as sponsor, one must: (a) have reached his fourteenth year, unless the minister sees a just reason for lowering the age; (b) not be, for notorious crime, even though there has been no sentence, excommunicated or debarred from legal acts or legally infamous, or interdicted, or publicly known as a criminal, or infamous by act; (c) know the rudiments of the Faith; (d) not be a novice or professed member of a religious institute, in which the members make vows, perpetual or temporary, to be renewed after a fixed time (can. 488), unless in case of necessity and with the express permission of, at least, the local superior; (e) finally a cleric in sacred orders should not act as sponsor unless his ordinary grants permission (can. 766). In case of doubt whether one can be admitted validly or licitly the parish priest must consult his ordinary, if there is time (can. 767). The sponsor contracts spiritual relationship with the person baptized but not as formerly with the parents also (can. 768).

*Time and Place.*—Infants are to be baptized as soon as possible, and parish priests and preachers are frequently to warn the faithful of their grave obligation in this matter (can. 770). In case of necessity, private baptism may be administered at any time and in any place (can. 771). Solemn baptism may be administered on any day, but it is recommended that, following the ancient custom of the Church, the baptism of adults, if it can be conveniently arranged, should take place on the vigils of Easter and Pentecost, especially in metropolitan and cathedral churches (can. 772). The proper place for administering solemn baptism is in the baptistery of a church or public oratory (can. 773); and every parish church must have its baptismal font, any statute, privilege, or custom to the contrary being revoked and reprobated, but without prejudice to the vested rights of other churches. Moreover, for the convenience of the faithful the local ordinary may allow or may order a baptismal font in any other church or public oratory within the limits of the parish (can. 774). If the person to be baptized cannot, without grave inconvenience or danger, come to, or be brought to the parish church or to another possessing a baptismal font, either by reason of the distance or otherwise, the parish priest ought to administer solemn baptism in the nearest church or public oratory within the parish limits, even if this have no baptismal font (can. 775). Solemn baptism is not allowed in private houses except: (a) if the person to be baptized is the child or grandchild of the supreme ruler of the people or of one who has the right of succession to the throne; in this case the privilege is to be asked for on the occasion of each baptism; or (b) if the local ordinary when his discretion and conscience so dictate, judges that there is a just and reasonable cause for allowing it in an extraordinary case. In both of these instances, the baptism is to be conferred in a domestic chapel or, at least, in a respectable place (can. 776).

*Beatification and Canonization* (C. E., II-367), *add.*: In the preparatory inquiries carried on by ordinary episcopal authority four witnesses are required to prove that the servant of God has not already been publicly venerated. At least eight witnesses are necessary to establish the reputation for sanctity, the fact of martyrdom, and the working of miracles through the intercession of the

servant of God. In ancient causes, in which there are now no eyewitnesses nor persons who have heard from such witnesses, the virtues and martyrdom can be established by hearsay evidence, public tradition, and contemporary documents or monuments recognized as authentic; but the miracles must always be proved by eyewitnesses (can. 2020). In establishing the sanctity or martyrdom of a religious, at least one half the witnesses must not belong to his order (can. 2030). Servants of God whose cause has only been introduced must not as formerly be called Venerable (can. 2084), a title which is to be given only after the publication of the papal decree declaring that the requisite virtues have been practised in a heroic degree or that the fact of martyrdom has been established (can. 2115). It should be remembered that the title "Venerable" never authorizes public veneration.

After the cause has been introduced and the remissorial letters (C. E., II-368a) have been received, the tribunal of investigation must begin its sessions within three months and complete its work within two years from the date of reception of the letters (can. 2095). The discussion concerning the validity of the information and the Apostolic processes takes place in the presence of the cardinal prefect and three other cardinals of the Congregation of Rites selected by the pope, and of the cardinal relator, the secretary, the prothonotary Apostolic, the general promotor of the Faith, and the subpromotor, and the decision is given by the cardinals just mentioned (can. 2100). In the third or general meeting to discuss the degree of virtue practised by a confessor or the fact and cause of martyrdom, the consultors, prelates, and cardinals have only a consultive vote, the decision being reserved to the pope (can. 2114).

In the ante-preparatory meeting to discuss the miracles, two expert physicians or surgeons, specialists if possible, selected by the cardinal relator after consulting the general promotor of the Faith, report whether a cure has been wrought and whether the fact can be explained by natural causes (can. 2119); the postulator should not be informed who the experts are, and ordinarily they should not be known as such to one another (can. 2031). If the two experts consulted in the ante-preparatory meeting have upheld the miracles, only one expert is called for the preparatory discussion; if, however, they did not agree, two new experts are to assist. The cardinals may, however, always increase the number of experts, and the advocate of the cause may, in replying, call another (can. 2122). As in deciding the fact of martyrdom and the heroic practice of virtue, the decision in the general meeting regarding the miracles rests with the pope alone. When the decree approving of the miracles has been issued, a discussion as to whether or not it is safe to proceed with the beatification is held in presence of the pope, who, after hearing the opinions of the consultors and cardinals, pronounces judgment (can. 2123-24).

**Canonization** (C. E., II-369b), *add*: Though only two miracles wrought through the intercession of a blessed after formal beatification are required for canonization, three are necessary when the beatification has been merely equivalent or virtual (can. 2138).

Finally, no writings relating to the causes of beatification or canonization of servants of God may be published without leave of the Congregation of Rites (can. 1387).

**Bells** (C. E., II-420), *add*: It is fitting that every church should have a bell to call the faithful to

Mass and devotions. The ecclesiastical authorities alone have control of the bells, which should be consecrated or blessed. These bells should not be used for purely secular purposes, except in case of necessity or by leave of the ordinary or through lawful custom or in accordance with the conditions laid down by the donors. The right of consecrating bells, even when the property of exempt religious, belongs to the local ordinary if he is a bishop. Bells may be blessed by the local ordinary, but if they are the property of exempt clerical religious, the right belongs to the higher superior; the ordinary and the higher superior can, however, delegate another priest to give the blessing (can. 1169).

**Benefice** (C. E., II-473), *add*: An ecclesiastical benefice is a juridical entity erected or constituted in perpetuity by competent ecclesiastical authority, consisting of a sacred office and the right to enjoy the revenues annexed to that office, arising from an endowment (can. 1409). This endowment consists of property belonging to the juridical entity itself, or of definite obligatory payments to be made by a family or moral person, or of definite free offerings of the faithful, accruing to the rector of the benefice, or of the so-called stole rights, or choir distributions, excepting a third part, if all the income of the benefice consists of choir distributions (can. 1410). Benefices are divided into: (a) consistorial, those usually conferred in the consistory, and non-consistorial; the canons in the Code apply only to the latter except the contrary is apparent; (b) secular or religious, according as they are given to the secular clergy only or to religious clerics only; in case of doubt all benefices erected outside of churches or houses of religious are presumed secular; (c) double (residential) or single (non-residential), according as the beneficial office entails the obligation of residence or not; (d) manual (temporary; removable) or perpetual (irremovable), according as they are conferred revocably or perpetually; (e) *curata* or *non-curata*, according as they entail the cure of souls or not (can. 1411). The law does not consider as benefices: (a) parish vicarships not erected permanently; (b) lay chaplaincies, that is those not erected by competent ecclesiastical authority; (c) coadjutorships with or without future succession; (d) personal pensions; (e) temporary *commenda*, that is the concession of the revenues from any church or monastery made to a person with the proviso that on his death the revenues are to revert to the church or monastery (can. 1412).

Two benefices both of which afford a decent living are incompatible and so may not be accepted or held simultaneously (can. 1439). If a cleric holding a benefice can show that he has held it in good faith peacefully for three years, he enjoys a prescriptive right to it, even if by chance his title was at first invalid, provided there was no simony (can. 1446). If the reception of any order is required for the holding of a benefice, the order must be conferred before the collation of the benefice (can. 1474). If the beneficiary, without just cause, fails to carry out his obligation of reciting the canonical hours, he is to lose a proportionate part of his revenue and bestow it on the church fabric or the diocesan seminary, or the poor (can. 1475).

**Bigamy** (C. E., II-563), *add*: **Effects**.—Bigamists, in the sense of individuals who have contracted two or more valid marriages successively, are irregular on account of defect (984). **Persons**



being bound by the bonds of legal matrimony attempt to marry again or even to contract a so-called civil marriage are irregular on account of crime (can. 985), and are by the very fact infamous; if they continue their illicit relations, despite the warning of the ordinary, they are to be excommunicated or placed under personal interdict, according to the gravity of their offence (can. 2356).

**Bination** (C. E., II-568), *add*: Three Masses may be said by all priests on Christmas Day and on the feast of All Souls. On other days only one is allowed, except by Apostolic indult, or by leave of the local ordinary, when, owing to a lack of priests, a notable number of the faithful could not otherwise hear Mass on a day of obligation; he cannot, however, allow any priest to celebrate more than two Masses (can. 806).

**Bishop** (C. E., II-581), *add*: A candidate for the episcopate must have been in priestly orders at least five years (cf. II-584b), and though required to be skilled in theology and canon law he need not be a graduate (can. 331). On being promoted to the episcopacy, a priest, even if he is a cardinal, must receive consecration within three months after receiving the Apostolic letters, unless legitimately prevented, and go to his diocese within four months (can. 333).

Among the privileges granted to bishops, even titular, are the right of saying Mass at sea; of allowing others to say Mass on a portable altar in their presence; of enjoying a daily personally privileged altar; of following their own calendar in all churches and oratories; of visiting their domestic chapels, when a visit to a public church is prescribed for gaining an indulgence; of giving the episcopal blessing everywhere; however, in Rome it may be imparted only in churches, pious places, or at assemblies of the faithful; of selecting for themselves and their household a confessor, who, if he lacks it, is granted jurisdiction by the law and who can absolve them from all sins and censures, except censures reserved very specially to the Holy See or those imposed for violating the secrecy of the Holy Office; of preaching everywhere, with at least the presumed leave of the local ordinary; of celebrating Mass on Holy Thursday or three Masses on Christmas Night or of allowing another to do so in their presence, provided they are not obliged to celebrate in the cathedral; of blessing rosaries, crucifixes, medals, statues, approved scapulars and of clothing with the scapulars without the necessity of enrolment, and of granting the usual indulgences; of erecting Stations of the Cross in churches and all oratories as well as pious places, with the usual indulgences, and of annexing the Way of the Cross indulgences to crucifixes for those who are legitimately prevented from visiting the Stations (can. 349).

Many faculties which were enjoyed formerly by bishops only in virtue of special indults are now granted to them by law. Thus they can appoint examiners and parish priests consultants with the consent of the cathedral chapter when a vacancy occurs in the interval between synods (can. 386); they can give the papal blessing with a plenary indulgence twice a year and also *in articulo mortis* (can. 914; 468); they may within limits authorize the alienation of ecclesiastical property (can. 534; 1532); they may allow a priest to binate (can. 806), or to say Mass outside of a church (can. 806); they may confer major orders for a serious reason on any Sunday or holiday of precept (can. 1006), or

dispense when there is imminent danger of death from matrimonial impediments, except those arising from the priesthood and affinity in the direct line, when the marriage has been consummated, likewise when the impediment has been discovered just before the marriage (can. 1043-45); they can dispense also from fast and abstinence for a just cause (can. 1245); and bless sacred utensils (can. 1304). As the ordinary power of bishops was thus greatly extended, Benedict XV to introduce greater uniformity throughout the Church has withdrawn the faculties commonly granted for periods of three, five, ten, or twenty-five years, to bishops for the external forum, except temporarily for regions subject to the Congregation of Propaganda.

Religious who become bishops are subject to the pope alone; if they have been solemnly professed, they can nevertheless use and administer temporal goods and acquire property for their territories; they may reside in any house of their order, but have neither active nor passive voice (can. 628; 629).

A coadjutor is usually granted to a bishop personally with the right of succession (without this right he is termed an auxiliary bishop), but sometimes he is granted to a see. If the bishop is entirely incapacitated the coadjutor has all his rights and duties, unless limited by the letters of appointment; otherwise he has only what the bishop allows him. The bishop should not habitually delegate to another what the coadjutor can and is willing to do, and the latter must, if requested by the bishop, carry out the episcopal duties, unless justly prevented from doing so. A coadjutor granted to a see may exercise all exclusively episcopal powers within his territory, excepting sacred ordination; in other matters he may act only as far as the Holy See or the bishop authorizes him. Coadjutors enter into their office canonically by showing their Apostolic letters to the bishop; if they have the right of succession or have been granted to a see they must exhibit the letters to the chapter also; if the bishop should be incapable of eliciting a human act the letters need be shown only to the chapter. No coadjutor should absent himself from the diocese, except during his vacation, for more than a short time without the bishop's leave. On the bishop's death, the coadjutor with right of succession immediately becomes the diocesan ordinary provided he has taken canonical possession; a coadjutor granted to a see retains his office during a vacancy, but an auxiliary's office would terminate on the bishop's death, unless his letters provide otherwise (can. 350-55).

**Blessing, APOSTOLIC** (C. E., II-602), *add*: The papal blessing with a plenary indulgence annexed can be given, according to the prescribed formula, by any bishop in his own diocese twice in the year, namely on Easter Sunday and on any other solemn feast chosen by him, even if he himself only assists at the solemn Mass; abbots or prelates *nullius*, vicars Apostolic, and prefects Apostolic, even when not bishops, can give it in their territories on only one of the more solemn feasts each year. Regulars who are privileged to bestow the blessing must use the prescribed formula and may not exercise the privilege except in their own churches and those of nuns or tertiaries lawfully aggregated to their order; but they are not allowed to impart it on the same day and in the same place as the bishop (can. 914-15). Priests assisting the sick may and must grant them the Apostolic blessing with a plenary indulgence at the moment of death according to

the formula prescribed in approved liturgical books (can. 468).

**Blessings** (C. E., II-600), *add*: All cardinals from the time of their promotion to the consistory have power to bless everywhere, with the mere sign of the Cross, crucifixes, medals, rosaries, statues, scapulars approved by the Holy See, thereby granting all the usual Apostolic indulgences. They may also with a single blessing erect stations of the Cross with the usual indulgences in all churches, oratories, even private, and other pious places, and may annex the Way of the Cross privilege to crucifixes with the usual indulgences in favour of those who by reason of health or other just cause are unable to visit the stations (can. 239).

A reserved blessing, if given by a priest without due permission, is illicit but valid, unless the Holy See in reserving it decreed otherwise (can. 1147). Though blessings are intended primarily for Catholics, they may be given to catechumens, and, unless the Church forbids it, to non-Catholics also, in order that they may obtain the grace of Faith or of Faith and bodily health (can. 1149). Where vestments and other things to be used in divine worship require a blessing before use it can be given by: (a) cardinals and bishops; (b) local ordinaries, who are not bishops, and parish priests for churches and oratories in their territories; (c) rectors, for their churches; (d) religious superiors and priests of their order delegated by them, for their churches and oratories and for the churches of nuns with solemn vows subject to them. Local ordinaries can delegate their power to any priest (can. 1305).

**Buildings, ECCLESIASTICAL.—The Church Fabric** (C. E., III-44), *add*: Except in case of privilege or legitimate custom, the bishop and cathedral chapter, the collegiate chapter, and the rector are the administrators of the temporal property destined for the repairs and decorations and service expenses of the cathedral, collegiate church, and other churches respectively (can. 1182). If any other persons, lay or clerical, are co-opted to assist in the administration, they with the administrator or his delegate as president constitute the church fabric council. The members of this council, unless otherwise legally appointed, are named by the bishop or his delegate and may be removed by him for grave cause (can. 1183). The council being intended for the administration of the temporal property must in no way meddle in what belongs to the spiritual office, for instance, the time and manner of ringing the bells; keeping order in the church or cemetery; the manner of making collections, announcements, etc. (can. 1184). If a church can no longer be used for Divine service and cannot be restored it may be put to profane but not sordid use by the local ordinary, who is to transfer its revenue and parochial title, if it be a parish church, to another church (can. 1187).

**Violation and Reconciliation.**—A church is violated (C. E., III-43c) only by the following acts, when certain, notorious, and performed in the church: (a) the crime of homicide; (b) the wilful and culpable spilling of a considerable quantity of blood; (c) utilizing the church for impious or sordid purposes; (d) the burial of an infidel or of an excommunicated person after a declaratory or condemnatory sentence. A contiguous cemetery is not affected by the violation of a church, and vice versa (can. 1172). If the violation takes place before the Canon of the Mass or after the Communion, the Mass is to be stopped; otherwise

the celebrant is to continue to the Communion (can. 1173). A blessed church may be reconciled by its rector or by any priest with his consent, at least presumed; but if it has been consecrated the rector may reconcile it only in grave and urgent necessity, when it is impossible to reach the ordinary, who must in this case be notified later (can. 1176). In reconciling a blessed church ordinary holy water may be used; in case of a consecrated church the water must be blessed for the purpose according to the liturgical laws; this blessing may be imparted not only by bishops but by the priest reconciling the church (can. 1177).

**Burial, CHRISTIAN** (C. E., III-71), *add*: Ecclesiastical burial consists in bringing a corpse to the church, and after the funeral service has been held there, interring the body in a place lawfully appointed as a resting place for the dead (can. 1204). The bodies of the faithful are to be buried in cemeteries blessed solemnly or simply according to the ritual. Nobody may be buried in churches, except residential bishops, or abbots or prelates *nullius*, who may be interred in their own churches, or popes, royal personages or cardinals (can. 1205). The Catholic Church has the right to own cemeteries; if this right is violated and there is no hope of reparation, if the majority of those being interred there are Catholics, local ordinaries should see that the public cemeteries are blessed, or else that there is a part reserved for Catholic burials, which should be blessed. If this cannot be done, then each grave is to be blessed, according to the ritual, as often as there is a burial (can. 1206). The canonical regulations concerning the interdiction, violation, and reconciliation of churches apply also to cemeteries (can. 1207). Each parish should have its own cemetery, unless the ordinary has arranged to have one in common among two or more parishes. The ordinary may allow moral persons and private families to have separate burial places (can. 1208). The faithful may construct private burial-places for themselves and their families in parochial cemeteries, with the written consent of the ordinary or his delegate, or in the private cemetery of an association, with the written leave of its superior; these private burial places may be alienated with the consent of the ordinary or superior. The graves of priests and clerics should, if possible, be separate from those of the laity and should be in a more respectable place; furthermore, if it can be conveniently done, the graves of priests should be separated from those of the inferior clergy. The cemetery is to be enclosed and carefully guarded (can. 1210). Local ordinaries, parish priests, and the proper superiors should see that no epitaphs, inscriptions, or decorations unworthy of Catholicism are allowed in cemeteries (can. 1211). If possible there should be, in addition to the blessed cemetery, an enclosed protected place for the interment of those who have not been allowed Christian burial. A burial is not allowed, especially in case of sudden death, until after a lapse of time sufficient to remove all doubt as to the reality of the death (can. 1213). No body that has received definitive Christian burial may be exhumed without the ordinary's consent, which must never be granted if the body cannot undoubtedly be distinguished from the other corpses (can. 1214).

Except for a serious cause the body should be brought before burial to the church for the approved liturgical services. These are to be held in the parish church of the deceased, unless he had lawfully chosen another; if the deceased had sev-



eral parishes, the church of the place of his death is the proper church; in all cases of doubt the right of the parish church prevails. If the person died outside of his parish the body should be conveyed to his own parish church, if it is within walking distance and that can be done conveniently; otherwise the services should be held in the church of the parish where he died. The ordinary is judge of the reasonableness of the inconvenience, and if the parishes belong to different dioceses the ordinary of the place where the death occurred decides. The family, heirs, or other interested parties may always bring the body to the church or burial place even when inconvenient, provided they pay the expenses (can. 1214-18). If a cardinal dies in Rome the funeral services are to be held in a church selected by the pope; if he dies outside of Rome, they should be held in a more important church of the place where he died, unless he had directed otherwise. The remains of a deceased residential bishop, even if a cardinal, or of an abbot or prelate nullius should be brought to the cathedral, abbatial or prelatical church, if convenient; otherwise they are to be taken to a more important church in the place where the death occurred, unless the deceased had chosen another church. A residential beneficiary is to be brought to the church in which he held his benefice, unless he selected another (can. 1219-20). The remains of professed religious and novices are to be brought to the church or oratory of their house or at least to one belonging to their order, but a novice has the right of selecting another; the right of removing the body rests with the religious superior. If the death occurs in a place from which it would not be convenient to transport the body to the residence or a house of the order, the corpse should be buried from the parish church of the place where the religious died, though, again, a novice may choose another church, and a superior may bring the body home if he bears the expense. What is here said of novices also applies to servants who were living permanently in a religious house at the time of their death (can. 1221-22).

A wife, or a child who has reached the age of puberty, may select her burial church and cemetery even contrary to the husband's or father's desire; professed religious who are not bishops, and children below the age of puberty have not this power of selection (can. 1223-24). For the valid selection of a church, the choice must be made of the parish church, or a church of a regular order (not however the church of nuns professed with solemn vows, unless in case of females residing within the clausura, not on mere sufferance, but as servants or for reasons of education or health or as boarders), or, in case of a patron, the church of which he enjoys the patronage, or any other church authorized to hold funeral services (can. 1225). Religious and secular clergy are expressly forbidden to induce anyone to swear or promise to select their church for his funeral services or their cemeteries for his burial place, or to bind himself not to change his present selection; if this injunction is violated the selection is void (can. 1227). If one desires to be interred in a cemetery other than that of his parish, it is to be done, if the administrator of the cemetery in question raises no objection; should one desire to be buried in the cemetery of a religious order, it is sufficient, but necessary, to obtain the legitimate consent of the religious superior. A deceased person who has a family burial-ground should be buried in it if possible, if he has not selected any place; a widow in a similar case is to be buried with her husband, or if she

had more than one, with the last; if there are several family burial places the decedent's family or heirs are to decide in which the interment should take place (can. 1228-29).

The parish priest of the deceased has the right and duty, except in case of great necessity, of taking the corpse to the parish church and performing the funeral services there—if the deceased had several parishes the church referred to is that of the parish where the person died. If the death occurred outside the parish and the body can conveniently be transported, the parish priest of the deceased should, after notifying the priest of the place of the death, bring the body to his own church and perform the funeral services there. If the funeral church belongs to regulars or is one not under the jurisdiction of the parish priest, the latter should take the body thither with the cross of the church where the ceremony is to be held; but the rector of the funeral church is to officiate. If, however, the church is not exempt from the jurisdiction of the parish priest, the right of officiating belongs not to the rector of the funeral church, except by special privilege, but to the parish priest of the district in which the church is situated, provided the deceased was one of his flock. If nuns or novices die in a convent, they are to be borne to the enclosure by their sisters; then, in case of nuns not under the jurisdiction of the parish priest, the chaplain accompanies the body to the convent chapel or oratory and officiates there; if the nuns are under the jurisdiction of the parish priest, the regulations are the same as in the case of ordinary parishioners mentioned above. If nuns, however, die outside their house the ordinary regulations are followed. When the corpse is sent to a place not in the parish of the deceased, and no funeral church has been selected, the funeral services, if any, are to be held in the local cathedral church, and if there is none, in the church of the parish where the cemetery is situated, unless local custom or the diocesan statutes provide otherwise (can. 1230).

The priest who performs the funeral services not only may but must, except in case of grave necessity, either personally or by a delegate priest, accompany the remains to the place of burial. The priest accompanying the body to the church or burial ground can freely pass through another parish or diocese with his stole and raised cross, without the permission of the parish priest or ordinary. But if the remains are to be buried in a cemetery to which they cannot conveniently be carried the parish priest or rector of the funeral church cannot claim the right of accompanying them beyond the limits of the city or district. The parish priest may not, without grave just cause approved by the ordinary, exclude secular clergy, or religious, or a pious sodality invited by the family or heirs, from attending the funeral service and burial; but the clergy of the church of the family or heirs of the deceased should be invited in preference to any others. Notoriously anti-Catholic societies or their insignia must never be tolerated at Catholic funerals. Clerics, moreover, are forbidden to carry the coffin of a layman (can. 1231-33).

Local ordinaries should draw up for their territories a schedule of funeral taxes or alms, if none already exists, after consulting the cathedral chapter, and, if deemed fitting, the diocesan vicars forane and the parish priests of the episcopal city, allowing for lawful local customs and the varying conditions of persons and places. The taxation should, however, be moderate so as to prevent disputes and remove occasions of scandal. All are

strictly forbidden to demand for funeral services, burials, or anniversary services more than the amount fixed in the diocesan schedule. The poor are to have their funeral services and a decent burial according to the liturgy and diocesan statutes entirely gratis. According to the general law, when the services are not held in the parish church of the deceased, his parish priest should receive a parochial stipend, except when the corpse cannot conveniently be brought to that church. If when the decedent has several parish churches to which his body might easily be brought, the funeral services are held elsewhere, the stipend is to be divided among all his parish priests. The parochial stipend is to be taken only from money allowed by the diocesan schedule of funeral and burial taxes. The payment of the parochial stipend is due if, for any reason, the first solemn funeral service, not having been held at once, takes place within a month from the day of burial, even if on the same day there were other minor public services. The amount of the parochial stipend is to be fixed by the diocesan schedule; if the parish church and the funeral church are in different dioceses, the amount fixed for the diocese of the funeral church is the lawful toll (can. 1234-37).

After the burial, the minister should enter in the register of the dead, the name and age of the deceased, the names of his parents or spouse, the date of his death, the sacraments administered, the

name of the minister, and the place and date of burial (can. 1238).

Only those who have been baptized are to receive ecclesiastical burial, but catechumens who without any fault on their part, die without the sacrament are to be considered as baptized. All baptized persons are to receive ecclesiastical burial unless they are expressly excluded by law. The following classes are excluded unless before dying they have given some sign of repentance: (a) notorious apostates from Christianity, or open members of a heretical or schismatic sect, or of the Freemasons or any similar society; (b) those excommunicated or interdicted by a condemnatory or declaratory sentence; (c) those who knowingly and deliberately committed suicide; (d) those killed in a duel or dying from a wound inflicted in a duel; (e) those who ordered their bodies to be cremated; (f) other public and notorious sinners. If it is suspected that the decedent came under any of these classes, the ordinary should be consulted if time permits; should the doubt remain, the body is to receive ecclesiastical burial, steps being taken to avoid scandal. No funeral Mass, even anniversary, or other public funeral services may be celebrated for one excluded from ecclesiastical burial. If it can be done without grave inconvenience, the corpse of an excommunicate *vitandus* who contrary to the canons has been buried in sacred ground should be exhumed with the ordinary's leave and buried in the unblest ground (can. 239-42).



**Canon (C. E., III-254), add:** The bishop must consult the chapter when he wishes: to unite simple benefices to prebends or to suppress prebends on account of the smallness of the revenues (can. 394); or to fix the time for the canon theologian to explain the Scriptures in church (can. 400); or to appoint to benefices or canonries in the cathedral or collegiate churches—a right now belonging to the bishop, all contrary customs being reprobated and contrary privileges being revoked (can. 403; modifying C. E., III-253e); or to appoint honorary canons (can. 406). He must obtain the consent of the chapter: to revive extinct dignities and to increase the number of canonical or beneficial prebends (can. 394); or to alienate ecclesiastical property valued between 1000 and 30,000 francs (can. 1532), or to lease the same for over nine years (can. 1541), but he does not require their consent or counsel to appoint a special feast day on a particular occasion (can. 1244). A canon must make a profession of faith in presence of the local ordinary or his delegate and the chapter, before taking possession (no fixed time is mentioned as in C. E., III-254a); if he negligently omits doing so, he is to be warned and if after a reasonable time he has not made it, he is guilty of contumacy and may be deprived of his benefice; in the meantime he is not to receive the income (can. 405; 2403). Canons are not *eo ipso* exempt from the yearly examinations in clerical sciences which all priests are required to undergo in the three years following the completion of their studies (can. 130).

**Cardinal (C. E., III-337b), add:** The cardinalate should be bestowed only on those having priestly orders. Among those excluded from the cardinalate are all who are irregular or prevented from exercising their sacred orders according to canonical discipline notwithstanding the fact that by Apostolic authority they may have been permitted to receive orders and dignities including episcopal (can. 232). Unless the Holy See provides otherwise in individual cases those who are promoted to the sacred purple by the very fact not only vacate all their dignities, churches, and benefices but lose their ecclesiastical pensions (can. 235). By an option made in the consistory and approved by the pope, cardinal priests, while respecting priority of order and promotion, can take another title, and cardinal deacons another deaconry, and if they have been cardinal deacons for ten years, can become cardinal priests. In this last case the cardinal ranks ahead of all the cardinal priests who received the sacred purple after him. If a suburbicarian see be vacant, cardinal priests who at the time of the vacancy were in the Curia or were temporarily absent from it transacting business for the pope, can exercise the right of option regarding the vacant see, observing priority of promotion; but cardinals to whom a suburbicarian see has been assigned cannot exercise an option on another; however, the dean of the cardinals, that is the one who has held a suburbicarian see longest, is always appointed Bishop of Ostia while retaining his old see (can. 236-37). Cardinals are obliged to reside at the

papal court and may not absent themselves without the pope's leave; however, the cardinal suburbicarian bishops require no permission to go to their dioceses; cardinals, too, who are bishops of non-suburbicarian dioceses are exempt from residence at court, but when they come to Rome they must present themselves before the Sovereign Pontiff and may not leave the city without asking his permission (can. 238).

**Privileges.**—Among the privileges which every cardinal enjoys from the time of his promotion in the consistory are the right: of everywhere hearing confessions even of religious of either sex and of absolving from all sins and censures, except censures reserved very specially to the Holy See and those annexed to a violation of the secrecy of the Holy Office; of choosing for himself and his attendants a confessor, who, if he lacks jurisdiction, obtains it without more ado, even in regard to all sins and censures, except those just mentioned; of preaching everywhere; of celebrating or permitting another to celebrate in his presence a Mass on Holy Thursday and three Masses at night on Christmas; of celebrating Mass on a portable altar not only at home, but wherever he is, and of allowing another Mass to be said in his presence; of saying Mass at sea, on taking the proper precautions; of saying Mass according to his own calendar in any church or oratory; of enjoying a personally privileged altar daily; of gaining in his private chapel all the indulgences which are conditioned on a visit to a church or public building in the place where he is stopping, a privilege which may be enjoyed by his attendants; of bestowing the episcopal blessing everywhere, but in Rome only in churches and holy places and at gatherings of the faithful; of carrying, like bishops, a pectoral cross over the mozzetta, and of using the mitre and pastoral staff; of celebrating Mass in any private chapel, but without prejudice to the individual holding the indult; of pontificating with a throne and canopy in any church outside of Rome, but if the church is a cathedral, he must inform the ordinary; of sharing everywhere the honours usually accorded to the local ordinaries; of speaking with authority in the external forum, when testifying as to papal pronouncements; of having a chapel exempt from visitation by the ordinary; of freely disposing, even by will, of what has been acquired from his benefices,—however a cardinal having a domicile in Rome must leave his sacred equipment—except rings, pectoral cross—and all things intended permanently for Divine worship, no matter with what funds purchased, to the pontifical treasury, unless he leave them to a church, public oratory, pious place, or ecclesiastical or religious person; of consecrating and blessing churches, altars, altar equipment, abbots, etc., anywhere, observing the due formalities, but he may not consecrate the sacred oils if he is not a bishop, and he must get the consent of the ordinary to bless or consecrate a sacred place; of precedence over all prelates and patriarchs, and even papal legates, unless the legate be a cardinal resident in his own territory,—outside of Rome a cardinal le-

gate a *latere* precedes all others; of conferring first tonsure and minor orders, provided the candidates have the proper dismissorial letters; of administering confirmation, but he must make the proper entries in the parochial register; of granting indulgences of two hundred days, to be gained, as often as the conditions are fulfilled, in places or institutes and by persons under his jurisdiction or protection,—he can also grant the same to be gained in other places by those present though not *toties quoties* (can. 239); of entering the enclosure of convents (can. 240); of conferring on his own and even private oratories all the rights and privileges of semi-public oratories (can. 1189); of keeping or reading books forbidden by the merely ecclesiastical laws of the Index (can. 1401).

The dean of the cardinals ordains and consecrates the pope-elect, if he is not already a priest or bishop, and in doing so wears the pallium; in his absence the sub-dean enjoys this privilege, and if he also is unable the oldest suburbicarian cardinal bishop officiates. The proto-dean acting for the pope imposes the pallium on those entitled to it or on their representatives; it is he also who announces the name of the newly-elected pontiff to the people (can. 239). A cardinal promoted to a suburbicarian see and sent into it canonically is a true bishop of the diocese, enjoying in it all the powers of a residential bishop. The other cardinals after taking canonical possession of their titles or diaconates have there all the rights of local ordinaries in their own churches, except the power of adjudicating or exercising jurisdiction over the faithful, but they may regulate discipline, correct morals, and supervise the service of the church. A cardinal priest can pontificate in his own title with throne and canopy, and a cardinal deacon can assist pontifically in his own diaconate, no one else being permitted to do so there without his consent; but in other churches in Rome the cardinals require papal permission to have a throne and canopy (can. 240).

**Cardinal Protector** (C. E., III-341), *add*: The sole office of a cardinal protector of a religious order or institute is to help it by his counsel and to protect its rights. Unless otherwise expressly provided for in particular cases he has no jurisdiction over the institute or its members nor can he interfere in its internal discipline or the administration of its property (can. 499).

**Cathedraticum** (C. E., III-441d).—All lay confraternities have to pay the cathedraticum annually (can. 1504); the amount of the tax if not fixed by ancient custom is to be determined by a provincial council or meeting of the bishops of a province; this decision of the bishops, however, has no force until it has been approved by the Holy See (can. 1507).

**Celebret** (C. E., III-477), *add*: A strange priest should be allowed to say Mass in a church on presenting certified and still valid commendatory letters from his ordinary if he be a secular priest, or from his superior, if he be a religious, or from the Sacred Congregation for the Eastern Church, if he belong to an Oriental Rite, unless it is certain that he has committed an offence that deprives him of the right to say Mass. If he is without these letters, he may be admitted if his moral standing is well known to the rector of the church; if he is unknown to the rector he may be allowed to say Mass once or twice, provided he is dressed as a cleric, receives no compensation at all from the

church for saying Mass there, and signs his name, office, and diocese in a book kept specially for that purpose. A bishop may issue further regulations on this subject which must be obeyed by all rectors, even exempt religious, except where there is question of allowing a religious to say Mass in a church of his own order (can. 804).

**Censorship of Books** (C. E., III-523), *add*: Publishers must obtain ecclesiastical permission before printing sacred pictures whether with or without prayers. Episcopal permission to publish books or pictures may be granted by the local ordinary of the author or of the place of printing or of the place of publication, but if one of these refuses another is not to be asked unless he be informed of the refusal. Religious must also first obtain the permission of their higher superior; secular clergy require the consent of their ordinary and religious clerics the consent of both the ordinary and their higher superior, to publish books treating of profane matters, or to write for or edit newspapers or periodicals; even Catholic laymen must not write for newspapers or periodicals hostile to Catholicism or morality, unless for a just and reasonable cause approved by the local ordinary (can. 1385-86). Authentic collections of prayers and pious works to which the Holy See has annexed indulgences, or schedules of Apostolic indulgences or summaries of indulgences formerly collected but never approved or now for the first time collected must not be published without the express permission of the Holy See (can. 1389). In publishing liturgical books, wholly or in part, and also litanies approved by the Holy See, a certification must first be obtained from the ordinary of the place of printing or publication showing that the work agrees with the approved editions (can. 1390). Vernacular translations of the Holy Scripture must not be printed unless approved by the Holy See, or unless published under the supervision of the bishops and with annotations taken chiefly from the Fathers and learned Catholic writers (can. 1391). Approval is also required for translations and new editions of a work already approved in the original text, but articles from periodicals when re-issued separately, are not considered new editions and need no new approbation (can. 1392).

Each diocesan curia should have its ex-officio censors, secular or religious clergy of suitable age, noted for their prudence and learning, who will observe a just mean in approving or condemning doctrine. In examining works the censors must disregard personalities, keeping before their eyes only the dogmas of the Church, the common teaching of Catholics as shown by the decrees of general councils, the constitutions and ordinances of the Holy See and the consent of approved learned writers. The censor, whose name is never to be made known to the author before a favourable judgment is rendered, must report in writing. If this is favourable the ordinary is to authorize the publication of the work, which must contain the censor's decision signed by his name; mention of the censor must never be omitted except in very rare and extraordinary cases when the ordinary deems the omission prudent (can. 1393). If the ordinary refuses to authorize the publication, the author on inquiring must be told the reason unless a grave cause counsels the contrary (can. 1394).

Authors and publishers who without the requisite leave cause books of the Holy Scripture or Scriptural annotations or commentaries to be printed thereby incur excommunication reserved to no one (can. 2318). This is a modification of C. E., III-



526b, where it is stated that the censure is incurred not only by those causing such works to be printed but also by the printer.

**Prohibition of Books.**—Not only may the supreme ecclesiastical authority for just reasons forbid the reading, keeping, or selling of books to every member of the Church, but local councils and bishops also may so bind their own subjects, though in the latter cases an appeal without suspensive effect may be made to the Holy See. The abbot of a monastery *sui juris* and the general of an exempt clerical religious order with his chapter or council may forbid books to their subjects for just reasons, and when there would be danger if action were not taken promptly other high superiors with their council may do so, but they must in such a case notify the head of the order as soon as possible (can. 1395). A book condemned by the Holy See is thereby forbidden everywhere and in every translation (can. 1396). When a book has been prohibited it may not without permission from the proper authority be published, read, kept, sold, or translated, nor may it be republished before the necessary corrections have been made and permission granted by the person who issued the prohibition or his successor or superior (can. 1398). Booksellers must not supply or sell or keep professedly obscene books; as to other forbidden books, they should obtain permission from the Holy See, but must not sell the books except to those who they believe have a right to ask for them (can. 1404). Those who have obtained permission of the Holy See to read and retain prohibited books are not authorized to read or keep books condemned by their ordinaries, unless this is expressly stated in the Apostolic indult granted to them (can. 1403).

The following general classes of works are forbidden by law (can. 1399): (a) Editions of the original text and of ancient Catholic versions of the Scriptures, including those of the Eastern Church, by non-Catholics; also translations into any language made or edited by non-Catholics; (b) books of any writers, which uphold heresy or schism, or undermine the very foundations of religion; (c) books attacking religion or morality; (d) books written by any non-Catholic treating professedly of religion, unless it is clear that they contain nothing contrary to the Catholic Faith; (e) certain books which have not obtained the requisite *imprimatur* before publication, namely, the Scriptures, Scriptural annotations and commentaries, vernacular translations of the Bible, books or booklets relating new apparitions, revelations, visions, prophecies, miracles or proposing new devotions, even if intended only for private use; (f) books attacking or ridiculing any Catholic dogma, or defending errors condemned by the Holy See, or detracting from Divine worship, or intended to overturn Church discipline, or attacking the hierarchy or the clerical or religious state; (g) books teaching or recommending any kind of superstition, charms, divinations, magic, or evocation of spirits; (h) books upholding the lawfulness of duelling, suicide, or divorce, or which in treating of the Masonic societies and others of the same kind declare them to be useful and not injurious to the Church and civil society; (i) books professedly treating of, narrating, or teaching obscene and lascivious things; (j) editions of liturgical works approved by the Holy See, in which any change has been made which causes them to vary from the authentic editions approved by the Holy See; (k) books containing indulgences that are apocryphal or have been proscribed or revoked by the Holy See; (l)

all representations of Christ, the Blessed Virgin, angels, saints or servants of God not consonant with the mind or decrees of the Church. The Scriptural works just referred to under (a), as well as translations that have not received the requisite *imprimatur*, may be used only by those engaged in any way in theological or Scriptural studies, provided they are edited faithfully and in their entirety, and that the introductions or annotations make no attack on Catholic dogma (can. 1400). Ordinaries may grant permission to their subjects in case of urgency to read individual books prohibited by the general law or by Apostolic decree (can. 1402).

Cardinals, bishops, even titular, and other ordinaries, while taking the necessary precautions, are not bound by the ecclesiastical regulations prohibiting books (can. 1401).

#### Censures, ECCLESIASTICAL (C. E., III-527d), *add*:

In stating the relation of the new code to the earlier discipline and practice canon 6 declares that all penalties, spiritual or temporal, medicinal or vindictory, *latæ* or *ferendæ sententiæ*, which are not mentioned in the code are abolished. So too are disciplinary laws not contained expressly or implicitly in the code, unless those that are laid down in the approved liturgical works or are of positive or natural Divine law.

A censure is inflicted only for a grave complete external fault committed with contumacy, and may be imposed on a delinquent whose identity is unknown. When there is question of censures *ferendæ sententiæ* a person is considered contumacious if after receiving the proper canonical admonitions he does not desist from the crime or refuses to do penance and repair the injury done or scandal given; however, a censure *latæ sententiæ* is incurred by the mere transgression of the law to which the censure is attached, unless the person is excused for a reason recognized by the law. Contumacy is considered to have ceased when the culprit has sincerely repented and also made reparation for the injury and scandal he has caused or promises seriously to do so; judgment as to the sufficiency of the repentance, satisfaction or promise rests with the person from whom absolution is sought (2242).

Censures *latæ sententiæ* are multiplied: (a) if different offences, each of which entails the censure, are committed by the same or distinct acts; (b) if the same offence, entailing the censure, is repeated so as to form a distinct offence; (c) if the crime when punished by different superiors with different censures is committed once or oftener. Censures *ab homine* are multiplied if several precepts or several sentences or more than one distinct part of the same precept or sentence imposes a separate censure (can. 2244).

Censures may be reserved to the Holy See simply, or specially, or very specially (can. 2245). A censure *latæ sententiæ* is not reserved unless the law or precept expressly so states; in case of doubt, whether of law or fact, the reservation does not hold (can. 2245).

Reservation of censures is justified only in very grave circumstances, and is to be interpreted strictly; in case of a censure which prohibits the reception of the sacraments it implies reservation of the sin to which it was annexed; but the reservation of the sin ceases as soon as one is excused or absolved from the censure (can. 2246), with one exception: to report a priest to his superiors on a false charge of solicitation is a sin reserved to the Holy See independently of the censure now attached to it (can. 894). The reservation of a censure in a

particular territory ceases when the offender is outside of that territory even if he has left in order to obtain absolution; but a censure *ab homine* if reserved is reserved everywhere. If a confessor who does not know of the reservation absolves a penitent from the censure and sin, the censure is validly absolved provided it is not *ab homine* or one very specially reserved to the Holy See (can. 2247).

If several censures have been incurred, the culprit may be absolved from one and not from the others. In asking absolution all the cases of censures should be mentioned, otherwise only the case mentioned is absolved; however, if only a particular absolution has been asked and the absolution given was general the censures omitted in good faith are remitted provided they are not very specially reserved to the Holy See (can. 2249). In the extra-sacramental forum no particular formula is necessary in absolving from censures, but in case of excommunication it is better to use the formula given in the ritual (can. 2250). Absolution from a censure in the external forum is valid also for the internal; if one has been absolved in the internal forum, he may act as absolved in the external, provided there is no scandal; but unless the absolution is proved or at least legitimately presumed in the external forum, the superior of that forum to whom the culprit owes obedience, may consider the censure in force until absolution in the external forum has been given (can. 2251). In danger of death any priest can absolve from all censures; but if the censure was *ab homine* or very specially reserved to the Holy See, the culprit on recovering is obliged, under penalty of re-incurring the censure, to have recourse to him who imposed it, if it be a censure *ab homine*, or to the Sacred Penitentiary or the bishop or other authorized person, within a month at least by letter or by his confessor if that can be done without grave inconvenience, and to obey their order, if the censure was *a jure* (can. 2252). When there is no danger of death absolution can be given: (a) from unreserved censures by any confessor in confession; or extra-sacramentally by any one possessing jurisdiction in the external forum over the culprit; (b) from censures *ab homine*, by him who inflicted the censure, or who passed sentence, or by his lawful superior, successor, or delegate, and this even if the culprit should have acquired a domicile or quasi-domicile elsewhere; (c) from reserved censures *a jure*, by him who created the censure or to whom it is reserved, or by their successors or lawful superiors or delegates. Consequently if the censure is reserved to the bishop or ordinary, any ordinary may absolve his own subjects and a local ordinary may absolve *peregrini* also; if it is reserved to the Holy See, the Holy See can absolve and so may those who have obtained from it general power of absolving, if the censure is simply reserved, or special power, if the censure is reserved specially, or very special power, if the censure is reserved very specially (can. 2253). However, in more urgent cases when censures *late sententie* cannot be observed externally without danger of grave scandal or loss of reputation, or if it would be hard on the penitent to remain in the state of sin until the authority to absolve could be obtained from the competent superior, any confessor may absolve in sacramental confession for any censure, no matter how it is reserved; but in such a case the confessor must oblige the penitent under penalty of re-incurring the censure, to have recourse, within a month, at least by letter and by his confessor, if that can be done without grave inconvenience, the culprit's name being suppressed, to the Sacred Peni-

tentiary or a bishop or other superior having the necessary faculties, and to obey his orders. The penitent, however, after receiving absolution in this manner and having had recourse to the superior, may freely go to a confessor enjoying the requisite faculties and receive absolution from him, on repeating at least the confession of the fault with the censure; when thus absolved he may receive a penance from the confessor, which will thereupon excuse him from subjecting himself to the orders of the superiors mentioned above. If in any extraordinary case, except when the censure was incurred for the crime of solicitation, this recourse to the ordinary competent authority is morally impossible, the confessor may, after enjoining what is ordered by law, absolve the penitent without the obligation of having recourse to the higher authorities and impose a fitting penance and satisfaction for the censure to be performed within a reasonable time under penalty of re-incurring the censure (can. 2254).

**Chapter (C. E., III-582, cf. also III-252), add:** The erection, modification, and suppression of collegiate and cathedral chapters is entrusted by the pope to the Congregation of the Consistory (can. 248). In each capitular church there should be dignitaries (C. E., IV-794) and canons, among whom the offices are distributed; there may be also other minor benefices of varying rank, but the chapter consists only of the canons and dignitaries—unless as regards dignitaries the capitular statutes provide otherwise (can. 393). The appointment of dignitaries is reserved to the Holy See; at least the chief dignitary of the cathedral chapter should, if possible, be a doctor of theology or canon law (can. 396). The bishop has a right, which should be exercised rarely and carefully, of appointing honorary canons, whether his own subjects or not, after consulting the chapter to which they are to be nominated. To act validly, however, if the person to be honored is not his subject, the bishop must ask the consent of the nominee's bishop, informing him also of the insignia and privileges attached to the position. The number of extra-diocesan honorary canons must be less than one-third of the number of titular canons. Honorary canons of churches outside of Rome can enjoy their insignia and privileges only in the diocese where they are nominated, unless when accompanying the bishop or representing him or the chapter at councils or other solemn assemblies (can. 406-07).

Each chapter is to have its own statutes which its members are bound to observe. When the statutes have been drawn up by the chapter they are to be submitted for approval to the bishop, without whose leave they cannot later be abrogated or changed. If the chapter should fail to draw up statutes for six months after the bishop has so ordered, the bishop may formulate them and impose them on its members (can. 410).

In certain cases canons may be absent from choir without losing the fruits of the benefits or the daily distributions (C. E., V-47), e. g. when prohibited from attending on account of illness or other physical impediment; or when representing the bishop at councils, or assisting him in solemn services or on visitation; or when with the consent of the chapter they are absent in the interests of the chapter or of their church; or while making their retreat, but not more frequently than once a year; or, in the case of the canon penitentiary, when hearing confessions. On the other hand, absent teaching theology or canon law, or acting as vicar general.



chancellor, or episcopal secretary, they do not share in the distributions. However, if the fruits of the prebend consist only of distributions or do not amount to one-third of the distributions, they share in two-thirds of the distributions (can. 420-21). After forty years' continuous faithful attendance at choir in the same church or at least in the same diocese a prebendary may ask the Holy See for an indult *jubilationis*; if it be granted he can receive both the fruits and the distributions, even those limited to dignitaries actually present in choir, unless the express will of the founders or the donors, or the statutes or customs of the church in question forbid it (can. 422).

When the cathedral or collegiate church is also a parish church the general regulations governing the relations of the chapter and the parish priest are as follows: It is the right or duty of the parish priest, (a) to offer Mass for the parishioners, to preach to and catechize his flock; (b) to keep the parochial registers and make official abstracts from them; (c) to perform the parochial duties usually reserved to parish priests, such as baptizing solemnly, giving communion to the dying, blessing marriages, holding funeral services (can. 462), the chapter having the right of holding such services only in case of funerals of dignitaries, canons (even honorary), or beneficiaries; (d) to perform other customary services not strictly parochial, provided they do not interfere with the choir service or are not performed by the chapter; (e) to collect alms for the parish, to receive, administer, and distribute offerings, according to the wishes of the donors. On the other hand, the chapter (a) takes care of the Blessed Sacrament, but the parish priest must keep a second key to the tabernacle; (b) sees that the parish priest observes the liturgical regulations while officiating in the capitular church; (c) takes care of the church, administering its property and pious bequests. Neither party must interfere in the other's duty; if a dispute arise it must be referred to the local ordinary; the chapter, moreover, is bound in charity to assist the pastor in his parochial work, especially if he lacks assistants, in accordance with the arrangements of the local ordinary (can. 415).

There must be a canon theologian and, if possible, a canon penitentiary in every cathedral church; and they may be appointed also for each collegiate church. The canon penitentiary should preferably be a doctor of theology or canon law, and at least thirty years of age (can. 398-99); he must not at the same time hold any other office in the diocese, entailing jurisdiction in the external forum; he has by law ordinary power, which he cannot delegate, of absolving strangers in the diocese and diocesan subjects outside of the diocese, from sins and from censures reserved to the bishop; he must be ready to hear confessions in the capitular church at a time which the bishop considers convenient for the people, and also during Divine service (can. 401); he must not hold the office of vicar-general, and is exempt from officiating as sub-deacon or deacon at the chapter services. If he neglects his duty he may be warned by the bishop and punished gradually by a curtailment of his revenue; if he does not amend within a year after the warning he may be suspended, and if he remains recalcitrant for six months longer he may be deprived of his benefice (can. 2384).

The cathedral chapter is to be invited to plenary and provincial councils; it sends two deputies as representatives, but they have only a consultative vote (can. 286). When a see is vacant the chapter must, if necessary, appoint an *oconomus*, and

notify the Holy See as soon as possible about the death of the bishop; the newly-selected vicar capitular must similarly announce his own election (can. 432). If the bishop is not dead, but is prevented entirely from communicating with his diocesans, his place is taken by the vicar general or other delegate, if the Holy See has not provided otherwise; if these should be similarly impeded the cathedral chapter appoints its vicar to act with the powers of a vicar capitular (can. 429).

**Church collections.**—Admission to services in the church must be entirely gratuitous, all customs to the contrary being now reprobated (can. 1181).

**Citation** (C. E., III-791), *add*: All citations are now peremptory, and need not be renewed, unless when the judge wishes to overcome the contumacy of the person involved by threatening spiritual penalties (can. 1714). They are made by means of a summons (the Code does not mention verbal citation) signed by a judge or his auditor and notary, and containing in general terms at least the reason of the lawsuit, the plaintiff's and the defendant's name, and the time and place of appearance (can. 1715). The summons is delivered to the defendant by a cursor; if he cannot be found it may be left at his home with any member of his family or a servant if he accepts it and promises to deliver it as soon as possible. If, however, he refuses or it is otherwise difficult for the cursor to reach the defendant, the judge makes an order authorizing the sending of the summons by registered mail with request for a receipt, or by whatever is considered the safest way in different localities. If the defendant even then cannot be found the citation is made by edict or publication, the summons being posted at the entrance to the court for a reasonable time and also published in a newspaper; in case of necessity either method would suffice (can. 1717).

**Clandestinity** (C. E., IV-1), *add*: A parish priest and the local ordinary can assist at a marriage validly only from the time of formal induction into their offices (the ordinary, however, can dispense the parish priest in writing from the formalities of induction, can. 1444), but their assistance would be invalid after a condemnatory or declaratory sentence of excommunication, interdict or suspension from office (can. 1095). It is not necessary for validity that they should be invited to assist. The parish priest or local ordinary may permit another priest to assist in their territory, but this permission must be given to a definite priest for a definite marriage, a general delegation being forbidden, except to priests appointed as parochial assistants (*vicarii cooperatores*) and then only for the parish to which they are attached; permission to assist is not to be given till all the legal requirements for establishing the freedom of the parties to marry have been fulfilled (can. 1096).

If the parties to be married belong to different rites the marriage is to be contracted according to the rite and before the parish priest of the man, unless the contrary is laid down by a particular law (can. 1097); such a law exists for the United States when one of the parties belongs to the Greco-Ruthenian Rite.

If the parish priest, local ordinary, or duly delegated priest cannot be had or reached without grave inconvenience, a marriage when: (a) there is danger of death is valid and licit if contracted solely before witnesses, and also when: (b) there is no danger of death, if it is prudently foreseen that

the gravely inconvenient condition of affairs will last a month. Should any other priest be available he ought to be called in and act, though this is not necessary for validity (can. 1097). It may be noted that no special reason is mentioned as necessary, in (a); formerly the marriage was allowed only to set consciences right or to legitimize offspring; again, in (b) the marriage may take place at once; formerly it could take place only after the lapse of a month.

The formalities of the marriage service bind all those who have been baptized in the Catholic Church or were converted to it from heresy or schism, even though they became perverts later, if they marry among one another, or if they marry non-Catholics after obtaining a dispensation, or if the parties belong to an Eastern and the Latin Rite respectively. Other non-Catholics, baptized or unbaptized, marrying one another are no where obliged to carry out the formalities of a Catholic marriage, nor are the offspring of non-Catholics, baptized in the Catholic Church, if they have grown up from infancy in heresy, schism, infidelity, or without any religion, and marry non-Catholics (can. 1099).

**Cleric** (C. E., IV-49), *add*: All clerics should go frequently to confession and should make an examination of conscience, a meditation, a visit to the Blessed Sacrament, and recite the Rosary daily (can. 125). They must not volunteer for military service, unless they do so with the permission of their ordinary, in countries where the service is imposed on clerics, in order to finish their period of service the sooner; nor may they take any part in internal wars or public disturbances. A minor cleric by volunteering for military service, except when he is authorized by the law or his ordinary, for a just cause, loses his clerical status (can. 141); this happens also if of his own authority he abandons the clerical dress and tonsure without just cause and after being warned by his ordinary remains recalcitrant for a month (can. 136). Clerics even if not bound by the law of residence must not absent themselves from their diocese for a notable time without leave of the bishop (can. 143). They are forbidden to carry the corpses of any laic, however dignified, at funerals (can. 1233); they must assist at the customary processions of their churches (can. 1294), and are obliged to aid their parish priest in teaching catechism (1333); they must not publish works on secular subjects or write for newspapers or periodicals, or edit them without the ordinary's consent (can. 1386). If a cleric has been made trustee of property for pious purposes he must inform the ordinary and give him details of the property and its obligations (can. 1506). It is forbidden to compel any one, in any way or for any reason, to become a cleric (can. 971) and those who are guilty of such an offence thereby incur excommunication reserved to no one (can. 2352).

Clerics must not act as sureties or pledge property without their ordinary's consent. They must refrain entirely from whatever does not befit the clerical state, from exercising certain indecorous arts, from gambling, carrying arms without necessity, hunting, especially if it is noisy, entering drinking-houses and other such places, except in case of necessity or for a just cause approved by the local ordinary. They should also avoid certain other things which, though not unbecoming in themselves, are nevertheless foreign to the clerical state: thus, they are not to practise medicine or surgery without permission of the Holy See, nor may they act as notaries or scriveners, except in ecclesiastical proceedings, or accept public offices which entail

lay jurisdiction or administration; they must not engage in secular business or accept lay positions in which they should have to render a public accounting, unless the ordinary authorizes them; neither may they act as advocates or procurators in civil courts, unless in protection of their own or their church's interests, nor may they take part in secular criminal trials even by giving evidence, except in case of necessity, if the defendant would be liable to severe personal punishment. They must not seek or accept legislative rank, as that of senator or deputy without leave of the Holy See in places where a pontifical prohibition is in force, nor in other places unless they have received the permission both of their own ordinary and of the ordinary of the place where the election is to be held. Finally, they are forbidden to be present at dances, pageants, and shows, where their presence would be unbecoming or would cause scandal, especially if they are held in public theatres (can. 137-40).

**Cloister** (C. E., IV-60), *add*: No one, whether male or female, old or young, except those mentioned below may enter the enclosure of nuns having solemn vows, without leave of the Holy See; if they do, they and those admitting or introducing them incur excommunication reserved simply to the Holy See; clerics in addition are to be suspended temporarily by the ordinary (can. 2342). Children below the age of puberty, however, are exempt from all censures under the new Code. Those who may go within the enclosure are (a) the local ordinary or regular superior engaged in visitation or other visitors delegated by them to inspect; they should be accompanied by one or more clerics or religious men of mature age; (b) the confessor, for the purpose of administering the sacraments to the sick or of assisting the dying; (c) reigning sovereigns, their wives and suite; also cardinals; (d) the mother superior is to obtain at least habitual approbation from the local ordinary to allow physicians, surgeons, and workmen to enter when they are needed; in case of urgency, the ordinary's approbation may be presumed (can. 600). No professed nun may go outside the enclosure, even for a short time, without a special indult of the Holy See, except in imminent danger of death or other very grave evil, recognized in writing as such by the local ordinary if time permits (can. 601). The local ordinary is to see that the regulations concerning the enclosure are observed, even in the case of convents under the direction of regulars, and may punish all delinquents even regulars; the regular superior may, too, punish the nuns and his own subjects (can. 603).

The enclosure should be observed in houses belonging to pontifical or diocesan religious congregations, and none of the other sex be admitted, except those mentioned above, or others when the superior sees a just and reasonable cause for so doing. If there are boarding students in the houses of these congregations or of an institute of male regulars, at least a part of the building should, if possible, be marked off as enclosed. The bishop in particular cases and for grave reasons may enforce the observance of this enclosure by censures, except in the case of exempt regular clerics (can. 604). Except when lawfully engaged in seeking alms, superiors may not allow their subjects to dwell outside their own houses, unless for a just grave reason and for as short a time as possible and in accordance with their rule; if the absence exceeds six months the leave of the Holy See is required, except when the religious is pursuing a course of studies (can. 606).



**Code of Canon Law.**—For many centuries a multitude of ecclesiastical laws had been enacted, many of which in the course of time had been abrogated or had fallen into desuetude, while others had become difficult to enforce or less useful for the common good. These laws were to be found only in incomplete scattered compilations so that many of them were unknown even to the learned. Pius X, realizing how helpful it would be for the restoration and permanency of Church discipline to end this inconvenience, decided in March, 1904, to codify the ecclesiastical laws, abolishing the abrogated and obsolete enactments, adapting others to the needs of the age, and enacting new ones where expedient. The archbishops of the entire world were directed to confer with their suffragans and the other ordinaries who are obliged to assist at provincial synods and to inform the Holy See what modifications and corrections of the laws they deemed especially necessary. Several canonists of note were summoned to assist in the work, which was carried out under the direction of Cardinal Gasparri. A commission of cardinals was appointed to examine, modify, and correct the proposed canons. The five original members of the commission were Cardinals Ferrata, Gennari, Cavicchioni, Vives y Tuto, and Cavagnis, with Cardinal Gasparri as *ponens*; these five scholars having died during the course of the undertaking their work was continued by Cardinals Vincent Vannutelli, de Lai, Martinelli, Pompili, Bisleti, Van Rossum, Giustini and Lega. A copy of the code as completed and corrected was sent before its promulgation to all the bishops and superiors of religious orders who are legitimately invited to œcumenical councils, in order that they might freely express their views in regard to the canons. After the death of Pius X the completed work was ratified, approved, and sanctioned by his Holiness Pope Benedict XV, as announced by his Bull "Providentissima Mater Ecclesia" (27 May, 1917), which, however, decreed that the prescriptions of the Code should not have the force of law till Pentecost, 19 May, 1918, so that those concerned might have time to study them before they became effective.

The published work opens with the Bull of promulgation, "Providentissima Mater Ecclesia," followed by the Profession of Faith of Pius V with the addition of Pius IX. Then begins the Code proper, comprising 2414 canons, occupying 456 octavo pages; the canons are followed by reprints of eight papal Constitutions dealing with church government during a vacancy and with papal elections, examinations for vacant parishes, solicitation, and marriages in the Indies, Brazil and Ethiopia, and by a short general index, since supplemented by a detailed alphabetical index filling 63 octavo pages. This second index, published as an appendix to the "Acta Apostolicæ Sedis," IX, part 2, is preceded by a list of corrigenda and addenda signed by Cardinal Gasparri, 17 Oct. 1917, and by a *Motu Proprio* of Benedict XV, dated 15 Sept. 1917, appointing a Commission for the exclusive authoritative interpretation of the canons of the Code and for the compilation and addition of any provisions that in the course of time might be found necessary.

The Code is divided into five Books. The first Book (can. 1-86) deals with certain general regulations, the relation of the Code to the Oriental Church, to concordats, to the liturgy, to custom, to statutory law, and to privileges. The second Book (can. 87-725) treats of persons: clerics, religious, and laics; the third Book (can. 726-1551), of things: sacraments, sacred places and times,

Divine service, teaching authority of the Church, benefices and church property; the fourth Book (can. 1552-2194), with ecclesiastical procedure: trials, beatifications and canonizations, special proceedings against clerics; and the fifth Book (can. 2195-2414) with crimes, punishments, and special offences.

**Collation** (C. E., II-475), *add*: Benefices may be granted by cardinals in their own titles or deaconries, but not by vicar-generals nor by vicars capitular except parishes of free collation when the see has been vacant a year (can. 1432). Besides all consistorial benefices and all dignities of cathedral or collegiate churches, the following are reserved to the Holy See (even during a vacancy): (a) all benefices rendered vacant by the death, promotion, renunciation or transfer of cardinals, papal legates, higher officials of the Sacred Congregations, tribunals, and offices of the Roman Curia, and of those who are members, even honorary, of the papal family at the time of vacating the benefice; (b) which, though founded outside of the Roman Curia, have become vacant by the death of the beneficiary in Rome; (c) which have been invalidly conferred owing to simony; (d) benefices which the pope has taken under control when he has personally or by proxy declared the election void or forbidden the electors to hold it, or accepted the renunciation, or promoted or transferred the beneficiary or deprived him of the benefice, or given the benefice *in commendam* (can. 1435). If an ordinary fails to grant a benefice within six months after learning of the vacancy,—except when he judges it prudent under special circumstances not to fill a parochial benefice—the right of collation devolves on the Holy See (can. 1432).

No one can grant a benefice to himself; all benefices must be granted for the lifetime of the holder, unless the terms of the foundation, or immemorial custom, or a special indulgent provides otherwise (can. 1437-38). Clerics or laymen knowingly presenting or nominating an unworthy person, lose by the very fact the right of nomination or presentation for that time, and under analogous circumstances a college loses temporarily its right of electing (can. 239); those guilty of simony in connexion with the granting of benefices, lose in consequence thereof their right of election, presentation, or nomination, and incur excommunication and, if they are clerics, suspension (can. 2391-92). Anyone assuming an ecclesiastical benefice, office, or dignity of his own authority, or who takes possession of or administers the benefice or office before receiving the necessary letters and showing them to the proper authorities, incurs canonical disability and is to be punished suitably by the ordinary, and in addition must give up the benefice, office, or dignity; any chapter or body admitting such individuals before they exhibit their letters are by the very fact deprived of the right of election, nomination, or presentation, during the pleasure of the Holy See, and anyone accepting an office, benefice, or dignity not legally vacant and allowing himself to be inducted, becomes by that fact incapable of acquiring it later and should be suitably punished (can. 2394-95).

**College** (C. E., IV-111), *add*: Unless otherwise provided by common law or the statutes, the decision of a college is given by a majority vote; if two scrutinies fail to give a majority, a plurality suffices in the third voting; but if the voting is then equal, the president has a deciding vote, or in case of elections if he does not wish to exercise

it, he who is senior in orders, or by first profession, or age is to be held elected. Decisions of collegiate moral persons which would affect the members as individuals require the approval of all. Colleges like other moral persons are by nature perpetual; they are extinguished, however, if suppressed by lawful authority or if they have been one hundred years out of existence (can. 101-02).

**Communion of children** (C. E., IV-170), *add*: In danger of death young children may and ought to receive Holy Communion if they know how to distinguish Christ's Body from ordinary bread and adore it reverently. If there is no danger of death they should have a certain knowledge of the mysteries of Faith that are to be believed as a necessary means to salvation, and be prepared to receive with such devotion as might be expected of children of their age. The confessor and the parents or guardians are to judge if they have the proper dispositions, but the parish priest must see that the first communion is neither received too soon nor delayed too long (can. 854).

**Communion of the sick** (C. E., IV-174), *add*: Persons who have been confined to bed by illness for a month and who have no sure hope of a speedy recovery may on the advice of their confessors receive Holy Communion once or twice a week after taking medicine or some liquid food (can. 858, modifying C. E., VI-279d).

**Compromise** (C. E., IV-189), *add*: Compromise by option is the only kind mentioned in the Code. If the person chosen to settle the controversy is to decide by the principles of the law he is known as an arbiter, if by the principles of equity, he is an arbitrator. Only those suits that may be settled by transaction (q.v.) may be compromised (can. 1929-30). Laymen or those who have been judicially declared excommunicated or infamous cannot act validly as arbiters, nor may religious accept the office without leave of their superiors (can. 1931). At an election by compromise the person delegated to vote in the name of all cannot declare himself elected; and if several have been so delegated none of them can of his own accord procure his own election by voting with the other delegates wishing to elect him. If the election is in connection with a clerical college the delegates must be priests, otherwise the election would be invalid (can. 172).

**Conclave** (C. E., IV-192), *add*: Papal elections are henceforth to be held in accordance with the Constitution "Vacante Sede Apostolica" of Pius X, dated 25 Dec., 1904. At the first of the general preparatory meetings which are to take place from the day of the pope's death till the day when the cardinals enter the conclave, the "Commissum Nobis" of Pius X abolishing the Veto and the "Prædecessores Nostri" of Leo XIII, with the annexed instructions concerning elections, are to be read and the cardinals present must swear to observe them and the prescriptions of the "Vacante Sede Apostolica," and also if they are elected never to cease vindicating the rights of the pope, especially the civil power of the Holy See; furthermore they must swear that they and their assistants will observe secrecy, even after the election, as to all that takes place in the conclave, unless expressly dispensed by the pope. Inspiration, compromise, and balloting are the only three methods of election recognized as valid, accession having been abolished. Neither the violation of the enclosure nor

the crime of simony now invalidates an election, a provision adopted to eliminate an occasion for disputing the validity of the proceedings.

**Concordat** (C. E., IV-196), *add*: The canons of the Code in no way abrogate or modify the concordats already existing between various nations and the Apostolic See (can. 3).

**Concubinage** (C. E., IV-207), *add*: Those who live in public concubinage are to be excluded from all legal ecclesiastical acts, until they give proof of real repentance; if the culprit has received minor orders he should be punished by dismissal from the clerical state if necessary; if he has received major orders, and disregards the ordinary's warning he is to be forced by suspension and privation to end the association and repair the scandal (can. 2357-59). Clerics are presumed to be concubinaires, if they are contumacious when they have been forbidden by the local ordinary on account of the danger of incontinence or scandal to retain in their service, or associate with, any woman (can. 133). The manner of dealing with such cases is as follows: If the cleric after being duly warned neither obeys nor replies, when he could do so, he is to be suspended *a divinis* by the ordinary, and deprived immediately of his parish, should he have one; if he holds only a benefice without cure of souls and does not amend within two months after his suspension he loses half his revenue, three months later he loses the remainder, and three months later is deprived of the benefice. If, however, the accused has excused himself to the ordinary, the latter is to refer his answer to two examiners; if the ordinary after consulting them should judge the alleged excuse insufficient, he must at once notify the cleric and command him formally to obey within a short time, which he is to specify. If the disobedient culprit is a removable parish priest he may be coerced at once as stated above; where, however, the culprit is a cleric holding a permanent benefice and gives new reasons instead of obeying, the ordinary should submit them to examination as before; if these excuses are deemed insufficient the ordinary is to command obedience within a fitting time, and if the culprit remains recalcitrant, proceed as above (can. 2177-81).

**Concursus** (C. E., IV-208), *add*: In places where appointments to parishes are made by concursus, this practice is to be continued until the Holy See decrees otherwise (can. 459).

**Conferences, ECCLESIASTICAL** (C. E., IV-213), *add*: These conferences have now been made obligatory and are to be held in the episcopal city and each vicariate forane frequently. They are to be attended by all secular priests, regulars, even exempt, having care of souls, and other religious holding diocesan faculties for hearing confessions if they have no conferences in their houses. Those who cannot attend must send written solutions of the questions, unless they have been expressly exempted by the local ordinary (can. 131). Similar conferences are to be held in clerical religious houses and attended by all the professed who are engaged in or have completed their theological studies, unless exempted by the constitutions (can. 591).

**Confirmation** (C. E., IV-215), *add*: Even without special delegation Confirmation may be administered by all cardinals, abbots or prelates *nullius*,



vicars and prefects Apostolic, who can act validly, however, only within their own territory and while holding office. Priests of the Latin Rite, who administer the sacrament by special indult, can validly confirm only persons of the Latin Rite, unless the indult expressly asserts otherwise; Eastern priests enjoying the faculty or privilege of confirming children of their Rite at baptism are forbidden to confirm children of the Latin Rite (can. 782). A bishop, or priest having a local Apostolic privilege, can licitly confirm externs in his territory, unless their own ordinary has expressly forbidden it; the bishop, moreover, may confirm his own subjects outside of his diocese privately, without staff or mitre, but would require at least the reasonably presumed permission of the local ordinary to confirm others (can. 783-84); hitherto no one might be confirmed without the permission of the local bishop. A bishop is obliged to administer the sacrament to his subjects who lawfully and reasonably ask for it, especially during the diocesan visitation, and a similar duty is incumbent on a specially privileged priest; ordinaries must see that their subjects have an opportunity at least every five years of being confirmed; and if an ordinary is guilty of grave negligence in this matter the metropolitan is to inform the Holy See (can. 785; 274).

When a subject has attained the use of reason he should be instructed to receive confirmation; he must not neglect to receive it, even though it is not a necessary means of salvation, and his parish priest should see that he receives the sacrament in due time (can. 787). Where several are to be confirmed all must be present at the first imposition or extension of hands, and none may depart until the rite has been completed (can. 789). The sacrament may be administered at any time, but preferably in Pentecost week. Though it should be given in a church, any other suitable place may be selected for a reasonable cause; moreover, as far as the bishop's right to administer confirmation is concerned there are no exempt localities in his diocese (can. 790-92). The chrism used in confirming should have been consecrated by a bishop; the anointing must not be made with an instrument, but with the minister's hand rightly placed on the head of the subject (can. 781).

If possible there should be a sponsor at confirmation; unless the minister believes there is a reasonable excuse, each sponsor should stand for only one or two subjects. To act validly as sponsor, a person must (a) be confirmed, have attained the use of reason, and intend to assume the obligation; (b) not belong to a heretical or schismatical sect or be excommunicated by condemnatory or declaratory sentence, or have incurred infamy of law, or be incapable of legal acts, or be a deposed or degraded cleric; (c) not be the father, mother, or spouse of the subject; (d) be chosen by the subject, parents, guardians, or if there are none or if they refuse, by the minister or parish priest; (e) personally or by proxy, touch the subject physically at the act of confirmation. To act licitly as sponsor, one should be (a) other than the baptismal sponsor, unless the minister decides there is a reasonable excuse, or unless the confirmation takes place lawfully immediately after baptism; (b) of the same sex as the subject, except for a just cause; (c) possess the qualifications required for acting licitly as a baptismal sponsor (can. 793-96).

Spiritual relationship arises only between the sponsor and the subject, and is no longer an impediment to matrimony (can. 797; 1079).

The parish priest is to record in a special book the names of the minister, recipients, parents and

sponsor, and also the date and place of confirmation; he should record the fact also in the baptismal register. If he was not present at the ceremony the minister must personally or by proxy notify him as soon as possible that the sacrament has been conferred. To establish the fact of confirmation, if no one's interests are endangered, the testimony of one unexceptionable witness, or the oath of the recipient, unless he was confirmed as an infant, suffices (can. 798-800).

**Confraternity** (C. E., IV-223), *add*: Members of confraternities may not assist as such in sacred functions unless wearing their habit or insignia: Women can be enrolled as members but only for the purpose of gaining the indulgences and spiritual favours granted to the associates (can. 709). Local ordinaries are to see that confraternities of the Blessed Sacrament and of Christian Doctrine are erected in every parish; on being legitimately erected they are thereby aggregated to the corresponding archconfraternities in Rome erected by the cardinal vicar (can. 711). Religious can and should communicate to confraternities erected by them the spiritual favours which are expressly mentioned as communicable in the faculties received from the Holy See; but confraternities erected by religious may not assume a habit or insignia to be worn at public processions or other sacred functions without special leave of the ordinary. No confraternity may abandon or change its habit or insignia without the local ordinary's consent (can. 713-14). Confraternities must be present with their insignia and their own standards at the usual processions unless they have been excused by the ordinary (can. 718). *See ASSOCIATIONS, PROUS.*

**Consanguinity** (C. E., IV-264), *add*: Consanguinity in the collateral line is now a diriment impediment to marriage only as far as the third degree inclusive; the impediment is multiplied only as often as the common stock is multiplied. In the third degree it is considered an impediment of minor rank (can. 1042; can. 1076).

**Consultors, DIOCESAN** (C. E., IV-323), *add*: The system of appointing diocesan consultors has been extended to all dioceses, including secular prelatures, not yet having cathedral chapters (can. 423). The consultors have the same rights and duties as the cathedral chapter (q.v.) in the government of the diocese and at councils (can. 427) and consequently the bishop is now obliged at times to obtain not only their counsel but their consent. They should number at least six, or four in dioceses where priests are few, and should live in or near the episcopal city. Before taking office they must swear to act faithfully and without favour (can. 425). They are all appointed by the bishop without consultation, but if during their three-year period of office one of them dies the bishop is to consult the others concerning his substitute,—if this happen during an episcopal vacancy the vicar capitular with the consent of the other consultors appoints the substitute, who must be confirmed by the new bishop (can. 424; 426).

**Consultors, PAROCHIAL**.—The rules governing the appointment, number, duties and removal of parochial consultors are the same as those relating to synodal examiners. The two offices may be held by the same person, who cannot, however, act in both capacities in the same case (can. 385-90).

**Councils, GENERAL** (C. E., IV-423), *add*: No council can be œcumenical unless convoked by the pope, who has the exclusive right of presiding over it personally or by proxy, of deciding what questions are to be debated, of transferring, suspending, or dissolving the council, and of confirming its decrees (can. 222). If any of those who by law are to be called to an œcumenical council cannot come, they must send a deputy and give a satisfactory reason of their absence. The deputy, as such, can be present only at public sessions and has no vote, but on the conclusion of the council he may sign the acts (can. 224). None of those who should be present may leave before the end of the council, unless with the permission of the president, to whom he shall have made known the reason necessitating his departure (can. 225). The decrees of a general council are not definitely binding until they have been confirmed by the pope and promulgated by his order (can. 227). If a pope dies during a general council, it is interrupted until his successor orders it to be continued (can. 229).

**Courts, ECCLESIASTICAL** (C. E., IV-447), *add*: Cases brought before the ecclesiastical courts for the infraction or declaration of a penalty are called criminal, otherwise they are termed contentious (can. 1552). Authority is reserved to the pope himself to deal judicially with all suits involving rulers, their children and the heirs apparent to the throne, cardinals, papal legates, and bishops, including titulars, in criminal cases. The tribunals of the Holy See have exclusive jurisdiction over (a) residential bishops in contentious suits—but disputes concerning the rights or temporal property of a bishop, or the *mensa*, or diocesan curia, may with the bishop's consent be tried before a diocesan tribunal consisting of the official and two of the older synodal judges or by the judge immediately higher (can. 1572); (b) dioceses or moral ecclesiastical persons subject immediately to the pope, for instance, exempt religious orders. Only a judge appointed by the pope has jurisdiction in a case which the sovereign pontiff has taken up (can. 1557). The suit is to be decided in the defendant's forum, but if the defendant has several fora, the plaintiff may select the forum (can. 1559). A *peregrinus* in Rome may be cited to appear there, but he has the right of returning home and asking that the case be remitted to his own ordinary; on the other hand a person who has been stopping a year in Rome may insist on being cited before a Roman tribunal (can. 1562).

**Court of first instance.**—Usually a case is first heard in the diocesan court, where the local ordinary is ex-officio the judge; he may act, personally or through others. Each bishop must appoint an official, other than the vicar general—unless owing to the small size of the diocese it is preferable that one priest should hold both offices—with ordinary power of adjudicating. He and the bishop form one tribunal, and he may decide all cases except those that the bishop reserves to himself. The official, who may have vice-officials as assistants, should be a priest, not less than thirty years old and skilled in law; he may be removed by the bishop; during a vacancy his office continues, and he cannot be removed by the vicar capitular, but he requires confirmation by the new bishop. If the vicar general happens to be the official, he ceases to be vicar, during a vacancy, but continues as the official. If the official is chosen vicar capitular, he is to appoint a new official (can. 1573). In addition each diocese should have a number of priests, not more than twelve, to act as judges with power

delegated by the bishop; they are appointed usually in the synod and are known as synodal judges; they hold office for ten years and can be removed only for grave cause by the bishop after consulting the cathedral chapter (can. 1574). It is now laid down, all customs to the contrary being reprobated and all contrary privileges revoked, that (a) contentious cases concerning the bond of holy orders, matrimony, the rights or temporalities of the cathedral and all criminal cases entailing loss of permanent benefices or excommunications are to be tried before a collegiate tribunal of three judges; (b) crimes involving deposition, perpetual loss of the right to wear clerical dress, and degradation are reserved to a tribunal of five judges. The local ordinary may have any other case tried before three or five judges, and must do so in cases of serious moment. These collegiate tribunals decide by a majority vote (can. 1576-77). Though the bishop may preside over the diocesan tribunal, except in the instances mentioned above (can. 1572), he is strongly advised not to do so, particularly in criminal and grave contentious suits (can. 1578). The judge of first instance for disputes between exempt clerical religious or in a monastery *sui juris*, is usually the provincial or local abbot respectively; between two provinces or two monasteries, the general or head of the monastic congregation respectively, or their delegate; but between different orders, or between non-exempt or lay religious, or between a religious and secular cleric or layman, the local ordinary acts as judge (can. 1579).

Auditors may be appointed to cite and examine witnesses, but not to adjudicate; they should as far as possible be chosen from the synodal judges (can. 1580-81); but a notary must be appointed, as the acts of a case would be null and void unless drawn up or at least signed by him (can. 1585). In addition the bishop must appoint a promoter of justice to prosecute in criminal suits and in contentious cases involving the public welfare; also, a defender of the bond to uphold the validity of ordination and marriage; the two offices may be held by the same person. In cases requiring the presence of either of these two officers, if they are absent through not being cited, the acts are null and void; if they were cited and do not attend, the acts are valid but must be submitted to them for scrutiny and correction if necessary (can. 1587). Unless appointed for a particular case they continue to hold office, like the official, during an episcopal vacancy (can. 1590).

**Court of second instance.**—An appeal is ordinarily taken from the court of a suffragan to the metropolitan (*See APPEALS*). If the first decision was handed down by a collegiate tribunal, at least the same number of judges must hear the appeal (can. 1596).

**Court of third instance.**—From the two preceding courts an appeal may be taken, if the dispute has not become *res judicata*, to the Sacred Roman Rota for final decision (C. E., XIII-205). If a litigant is dissatisfied with the proceedings in the Rota on the grounds of violation of secrecy, or partiality of an auditor, or if he contests the validity of the judgment, he can address himself to the Apostolic Signature (C. E., XIII-149), which may examine his complaint and, if equitable, refer the matter back to the Rota for its consideration. The Apostolic Signature, moreover, can decide questions of competency, if the judges between whom the conflict of opinion has arisen are not subject to a higher tribunal, and further it is delegated to examine and answer petitions addressed to the sov-



foreign pontiff asking to have a suit sent before the Rota (can. 1603). The Apostolic Signature is never bound to state the reasons for its decision, but it may do so (can. 1605).

**Delegated Courts.**—A judge delegated by the Holy See may avail himself of the services of the curial officers of the diocese in which he is to adjudicate, or of any other persons (unless restricted by the rescript); but those delegated by a local ordinary must employ the officers of the diocesan curia, unless the bishop for grave cause decrees that special assistants should be engaged (1607).

**Procedure.**—The judge proceeds with the case only at the request of the litigants if the dispute is merely personal, but in criminal suits or those involving the interests of the Church or the salvation of souls he proceeds in virtue of his office (can. 1618). Dilatory exceptions, particularly those regarding persons must be taken before the pleading (*contestatio litis*), unless the grounds for objecting arise later or the party swears that they had not come to his notice earlier; the competency of the judge, however, may be questioned at any stage of the case, and an exception based on excommunication may be raised at any time before the definitive judgment. Peremptory exceptions known as *litis finitæ*, which would stop the suit entirely if upheld, are to be taken and decided before the pleading; they may be taken later, but the party objecting must pay the costs, unless he proves that he was not responsible for the omission; other peremptory objections are to be made during the course of the trial (can. 1628-29). Counterclaims may be made after the pleadings, and preferably without any delay; they are to be tried ordinarily along with the original suit. The question of surety for costs and other similar matters are generally to be discussed before the pleadings (can. 1630-31). Extension of time may be granted to either party by the judge if it is requested before the customary period has elapsed, except when the law has laid down a limit after which it recognizes no legal claim to relief; if the last day is a feast-day, the period is extended to the morrow.

The diocesan court is as a rule to be held in a hall near the bishop's residence, which should contain a crucifix prominently displayed and a copy of the Gospels (can. 1636); the bishop is to issue a public decree stating the day and the hour, when the court can ordinarily be approached (can. 1638). No one should be admitted to the trial unless the judges believe his presence to be necessary (can. 1640). The record of the proceedings is as far as possible to be drawn up in Latin, but the questions and answers of witnesses should be recorded in the vernacular (can. 1642). The actuary's signature and the seal of the court should appear on each leaf; when the signatures of the litigants or witnesses are required, if they cannot or will not sign, the fact should be recorded in the record and the judge and actuary should declare that the statements were read to the party or witness and that he could not or would not sign (can. 1644). In cases of appeal, indexed copies of the record, authenticated by the actuary or chancellor, are forwarded to the higher court; in case of necessity the original record could be sent. If they are sent to a place where the vernacular language is unknown the records should be translated into Latin; if they have not been properly prepared, they may be rejected by the higher court (can. 1644).

**Parties.**—The plaintiff and defendant may be compelled to appear personally; minors appear through their parents or guardians, but in suits involving spiritual interests they can act without

leave of the parents or guardians, if they have attained the use of reason, and if they are fourteen years of age can appear personally, otherwise they are to be represented by a guardian chosen by the ordinary or a procurator named by them with the ordinary's permission (can. 1648). Religious can engage in lawsuits without their superior's consent only (a) in vindication of the rights they acquired by profession against their order; (b) when it is necessary in order to defend their rights while they are living with permission outside of the houses of their order; (c) when they wish to denounce their superior (can. 1652). A bishop can appear on behalf of the cathedral church or episcopal *mensa*; but to do so lawfully, he must listen to the cathedral chapter or council of administration or have their consent or advice, when such a sum of money as would necessitate their consent or advice for valid alienation is involved. Beneficiaries may prosecute or defend on behalf of their benefice, but to act licitly they should have the written consent of the ordinary or, if there is not time to obtain it, of the vicar forane. Prelates and superiors of chapters, sodalities, and colleges require the consent of these bodies; and the local ordinary may appear personally or by proxy in the name of a moral body whose administrator neglects to take action (can. 1653). Excommunicates *vitandi* or others after declaratory or condemnatory sentence cannot appear personally except to contest the justice or legitimacy of their excommunication; they may appear by a procurator to avert any other spiritual danger; otherwise they have no standing in court. Other excommunicates can generally appear in court (can. 1654).

In criminal cases the defendant must always have an advocate; and in contentious cases involving the public welfare or the interests of minors, the judge must appoint one to assist a litigant who has none, and may even provide a second advocate if the circumstances demand it (can. 1655).

The right of action in contentious suits, both real and personal, may be lost by prescription; but the question of personal status may always be raised (can. 1701). Criminal actions are terminated by the death of the defendant, by condonation by a lawful superior, and by delay in starting the suit; actions for affronts are barred in a year, trials for special crimes against the sixth and seventh commandments in five years; trials for simony or homicide in ten years; all other criminal actions in three years; suits, however, reserved to the Holy Office are governed by the special regulations of that body. Even if a criminal action has been barred by lapse of time, a suit may at times be brought to recover damages, and a legitimate superior may be obliged to refrain from promoting a cleric, if a doubt remains as to his fitness, and even to prohibit him from exercising his ministry if scandal would result. In contentious suits the time for prescription begins to run from the moment the action could have been begun; in criminal cases it runs from the date of the offence, unless the crime is continuous in its nature or is one of a series, when it begins after the last act (can. 1702-05).

The procedure followed in the court as described in C. E., IV-452, is but little changed. The witnesses should ordinarily testify under oath, but those who have not reached puberty, the feeble-minded, those declared or condemned as excommunicated, perjurers, or infamous, persons of depraved morals, and known bitter enemies of one of the litigants are usually not sworn, their testimony being accepted merely as corroborative. In

private suits, however, the parties may allow a witness to testify without being sworn (can. 1767); the judge may oblige the witness by oath to observe secrecy till the proceedings are made public, or even perpetually where there is danger of scandal or discord (can. 1769). Though the witnesses are to testify in court, cardinals, bishops, and distinguished persons who by civil law are exempt from appearing before a judge as witnesses, can select another place for giving their evidence, but should notify the judge. Nuns professed with solemn vows and persons who are ill may testify at home. A witness who lives in a remote district and cannot reach the judge without grave inconvenience can testify before a commission; and those living in another diocese under similar circumstances can give their evidence before a local tribunal (can. 1770). The litigants may not be present at the examination of the witnesses without the judge's permission, nor may the witnesses be examined in one another's presence. However, when all the testimony has been taken, the judge may confront two witnesses or a witness and a litigant if the witnesses differ seriously and substantially from one another or from a litigant, and if, at the same time, this is the easiest way of getting at the truth, and it can be done without danger of scandal or discord (can. 1771-72).

The witness is questioned only by the judge; if the litigants, the promotor of justice, or the defender of the bond are present at the examination and wish to get his answer on any point, they must submit their questions to the judge to be asked by him (can. 1773). The questions asked of the witness should be short, candid, uncomplicated, pertinent, and should not suggest the answer; if any facts have slipped from his memory the judge may assist him in recalling the circumstances, if this can be done without danger. The witness may not read his testimony, except where there is question of complicated figures; his evidence is to be taken down verbatim by the actuary, unless the judge deems anything too trivial to be recorded; before leaving the court-room the transcript of the testimony is to be read to the witness so that he may add, suppress, correct, or vary what is necessary; the transcript is then signed by the witness, the judge, and the notary (can. 1775-80). When the parties or the procurators have not been present at the examination, the judge may order the publication of the evidence as soon as the testimony is complete. When this has been done exception cannot be taken to a witness, unless a party can prove or, at least, swears that he was not aware of the disqualification of the witness in time to object; he may, however, challenge the validity of the examination or of the evidence itself (can. 1783). The witness is entitled to be reimbursed for his travelling and hotel expenses and for loss of time, the judge fixing the amount. If the party who called him does not pay within the time fixed the evidence given on his behalf by the witness is considered stricken out (can. 1787-88). The testimony of one witness is not considered sufficient proof except regarding matters done by him ex-officio; the concurrent testimony of two unexceptionable witnesses is necessary but sufficient to establish a point, though occasionally the judge may demand more ample proof on account of the gravity of the issue or if some doubt still remains (can. 1791).

An incidental suit sometimes occurs, as when after the citation a question arises which, though not contained expressly in the bill, is so connected with the main controversy that it should be set-

tled first. It may be raised verbally or by writing and is decided by an interlocutory sentence of the judge (can. 1837-38), which for just cause may be corrected or revoked by him before the conclusion of the main case (can. 1841). These suits deal with contumacy (q.v.) the intervention of a third party to protect his own interests (can. 1852), and attentates or attempts of either party or of the judge to do anything during the suit, against the interests of one of the litigants and without his consent (can. 1854).

The next step before the discussion of the case is the publication of the acts, by which is meant that each party and his advocate may inspect the acts which up to this point have been kept secret and may obtain copies of them (can. 1858-59). When the judge has ascertained that all necessary matters have been set forth or that the legal time for producing proofs is over, he issues a decree declaring the case concluded (can. 1860), and fixes a date for the parties to bring forward their defence or claim (can. 1862). The defence is made in writing, copies being exchanged between the parties and also prepared for each of the judges, though the president of the court may order them to be printed (can. 1863). Each party is entitled to reply once in writing to the allegations of his adversary (1865). If he thinks it advisable the judge may allow a brief address to be made, but only to clear up some obscure point (can. 1866). The judgment must be based on the acts and proofs; if the judge cannot attain moral certainty he should announce that the plaintiff has not proved his claim and uphold the defendant except in a *causa favorabilis*—or when there is a doubt about the right of two claimants to possession, in which case he should leave both parties in undivided possession (can. 1869). Before a collegiate tribunal decides, its members meet and each reads his decision and the reasons therefor; a discussion takes place and any judge may change his opinion; if no agreement is reached another meeting may be called within a week for further discussion (can. 1871). The judgment must give the main details of the proceedings and decide for or against the defendant; prescribe what the loser is to do, and how, when, and where he must do it; give the reasons for the judgment, and settle the question of costs; and be dated and signed by the judge or judges and the notary (can. 1873-74). The sentence is to be published as soon as possible; this may be done by citing the parties to hear it read, or by informing them that they can obtain copies of it from the chancery, or by sending them a copy by registered mail (can. 1877).

*Expenses.*—In contentious suits the parties may be compelled to pay something towards the expenses of the court, unless they are excused by reason of their poverty (can. 1908; 1914). The usual costs are fixed by the provincial council or by a meeting of the bishops, and the judge may insist on security for the costs being lodged in the chancery. The loser usually pays all the costs, but in very intricate cases or in suits between relatives or for a just cause a pro rata payment may be ordered in the sentence (can. 1909-11). The decree of execution becomes operative when the suit has been definitively settled; in cases of necessity, however, a provisional execution may be ordered (can. 1917). The ordinary of the court of first instance, or if he refuses or neglects, the appellate judge is the executor (can. 1920). The judgment in real actions is to be executed at once, in personal actions, however, a delay of not less than two, or more than six months is allowed (can. 1922).



**Criminal cases.**—Criminal courts deal only with public offences; if the offence is a violation also of the civil law the ordinary usually does not institute proceedings if the accused is a lay person and the civil authorities have taken the case in hand. When the offence is certain, spiritual punishment such as penance, excommunication, suspension, and interdict can be imposed by precept irrespective of a trial (can. 1933). The right of action is reserved to the promoter of justice, but a private individual may and sometimes is obliged to denounce the offender to the bishop, chancellor, vicar forane, or parish priest, and must then aid the promoter (can. 1835-37). If the offence is not public and certain there must be a special inquisition to insure that an innocent party's reputation will not suffer by his being summoned to answer a criminal charge (can. 1939). If the accused is cited to appear (*See* INQUISITION, CANONICAL) and confesses his guilt the ordinary need only administer a judicial correction. This correction may be administered only twice, and never when the offence entails excommunication very specially or specially reserved to the Holy See, or infamy, deposition, degradation, or privation of a benefice, or when it is necessary to pronounce a vindictory punishment or censure, or when it would not be sufficient to repair the scandal and the wrong done (can. 1946-49). When there may be no correction or if it has been administered in vain the record of the inquisition is turned over to the promoter of justice, who at once draws up a bill and the case proceeds along the lines of contentious suits already described (can. 1954-55).

**Matrimonial Suits.**—Matrimonial suits of rulers, their children, and heirs apparent are to be tried only before the Sacred Congregation, tribunal, or special commission which the pope selects for the purpose; the Congregation of the Discipline of the Sacraments has exclusive jurisdiction over dispensations from ratified unconsummated marriages; the Holy Office decides all questions of the Pauline Privilege (can. 1961-62). In other cases the competent judge is the local judge where the marriage was celebrated or where the party lives, or where the Catholic party has a domicile or quasi-domicile, if the other party is not a Catholic (can. 1964). Instead of following the ordinary procedure the ordinary may declare a marriage null and void, provided the defender of the bond has intervened, when it is proved by unimpeachable documentary evidence that there was an impediment of disparity of worship, sacred orders, solemn vows of chastity, ligamen, consanguinity, affinity or spiritual relationship, and when there is equal certainty that no dispensation has been granted from the impediment. If the defender of the bond has any probable doubt, he is to appeal to the judge of second instance, who, having heard the defender and examined the record, decides whether the decree of nullity is to be confirmed or whether the case is to follow the ordinary procedure; if he decides not to confirm the decree of nullity he sends the suit to the court of first instance (can. 1990-92).

**Ordination suits.**—To begin a suit on the validity of ordination or its obligations, a libellus should be forwarded to the Congregation of the Discipline of the Sacraments or if the question of a substantial defect of rite is involved, to the Holy Office; the congregation decides if the case is to be sent to the tribunal of the diocese of the cleric at the time of ordination, or to the diocese where he was ordained if the suit is based on a defect of rite or it may decide the question itself (can.

1993). The defender of the bond of ordination must intervene in these suits, which, in general, follow a procedure similar to that of matrimonial cases, including appeals and the sentence of nullity.

**Cremation** (C. E., IV-481), *add*: The practice of cremation is reprobated by the Church, and no attention must be paid to any request for it (can. 1203). If a person has asked to be cremated he may not receive Christian burial, unless he repents before dying (can. 1240); excommunication reserved to no one is incurred *ipso facto* by those who order or compel the Christian burial of such persons, while those who give it voluntarily are interdicted from entering church, the censure being reserved to the ordinary (can. 2339).

**Crime in Canon Law.**—By the word *crime* is meant an external sinful violation of a law to which at least an indeterminate canonical sanction has been annexed; unless the contrary is apparent what the Code says about crimes applies also to the violation of a precept imposed with a penal sanction. Its quality depends on the object of the law; its gravity on the importance of the law violated, the degree of imputability, and the injury caused. It is (a) public, if it is commonly known or has taken place under such circumstances that a prudent person must easily know that the fact is about to become public; (b) notorious *notorietate juris*, after a lawful judgment or after confession in court; (c) notorious *notorietate facti*, if publicly known and committed under such circumstances that it cannot be explained away or legally excused; (d) hidden or occult, if it is not public; materially occult, if the crime is secret, formally, if the imputability is so (can. 2195-97).

The degree of imputability depends on the malice of the agent and his responsibility for being ignorant of the law or for not exercising proper diligence. If the law has been violated externally, deliberate ill-will is presumed in the external forum until the contrary is proved. Ignorance of the penalty annexed diminishes somewhat but does not prevent imputability; so, too, do inadvertence or error. If the law has been violated through lack of proper diligence, prudence will dictate to what extent imputability has decreased. In case of merely ecclesiastical laws, grave fear, even if only relatively so, necessity, and great inconvenience will often prevent an act from being criminal. Crime is aggravated by the higher rank of the offender or of the party wronged, and also by abuse of authority in committing it (can. 2199-2207). A recidivist is one who after condemnation commits a crime of the same nature under such circumstances and within such time as preclude one from judging prudently that his evil will was changed (can. 2208).

As a general rule all those who have concurred in a crime as conspirators, or necessary accomplices, or those but for whose influence the crime would not have been committed share equally in the guilt with the principal offender; those, however, who were superfluous accomplices, or who partially withdrew their influence, or who participated only by neglecting their duty are less guilty. Accessories after the fact, e.g., those who praise the evil done, or share in its fruits, or conceal the culprit do not share the guilt of the principal, if, before the commission of the crime, they had no agreement with him to act thus; their acts may, however, constitute distinct crimes (can. 2209). These provisions about co-operation have a special importance inasmuch as certain co-operators men-

tioned expressly as censured in the Constitution "Apostolicae Sedis" are passed by in silence in the provisions of the Code imposing excommunications and suspensions.

An attempted crime occurs when one does or omits something that would naturally result in an actual crime, which, however, does not happen either because the agent changed his mind or made use of insufficient means. If the means employed were sufficient but the crime was prevented by the intervention of a cause independent of the agent's will, we have what is called a frustrated crime. The nearer an attempted crime approaches to success the greater is its imputability; but other things being equal it is less blameworthy than a frustrated crime. Nothing, however, is to be imputed to one who, having set about committing a crime, voluntarily desists before its accomplishment, provided no injury or scandal was caused by the attempt (can. 2212-13).

**Punishments.**—The Church has an innate right, independent of any human authority, of controlling its delinquent subjects by both spiritual and temporal penalties (can. 2214). These penalties are: (a) medicinal, or censures; (b) vindicatory; (c) remedial (can. 2216). There should be a just proportion between the punishment and a crime; whatever excuses from grave guilt excuses from all penalty, and the milder view is to prevail in doubtful cases, except when there is question of the justice or injustice of a penalty inflicted by a competent superior (can. 2218-19). Only those who may enact laws or impose precepts can annex punishments for the violation of these; a vicar general, therefore, cannot inflict a penalty without a special mandate. Those who legislate may under certain circumstances annex or increase penalties to secure the observance in their own territory of existing laws, whether divine or enacted by a higher superior. When a law has no sanction annexed a lawful superior may impose a just punishment on a subject violating it, even without previous warning, in case of scandal or of an unusually grave infraction; otherwise the culprit must not be punished unless the offence took place after due warning of the impending penalty. A judge may not increase the penalty imposed by law, except where the crime was committed under extraordinarily aggravating circumstances, but he may often remit it, partially or entirely, especially where the culprit has sincerely repented and repaired the scandal given or has been or is to be sufficiently punished by the evil authorities. When the number of crimes is very great the number of penalties need not be increased proportionately; the judge might, for instance, inflict the heaviest punishment annexed to any of the offences, with or without any additional remedial penalty. If a penalty *latæ sententiæ* or *ferendæ sententiæ* is imposed as a deterrent in an individual case it should ordinarily be declared in writing or in presence of two witnesses, the reasons for the punishment being given, though these may be kept private if the superior so desires. If after a crime has been committed the penal law is changed, the milder law is to be applied in punishing; when a later law abolishes a penalty there is to be no punishment, except that censures already incurred continue. A penalty binds the offender everywhere, unless the contrary is clearly stated (can. 2220-26).

In regard to punishments *latæ sententiæ*, (a) affected ignorance, whether of the law or the penalty alone, never excuses; (b) any diminution of responsibility, arising from the intellect or the will, excuses when the law employs the words "pre-

sume," "dare," "knowingly," "deliberately," "rashly," or similar terms implying full knowledge and deliberation; (c) when such expressions are not found in the law, crass or supine ignorance does not excuse; other degrees of ignorance excuse from medicinal but not from vindicatory punishments; drunkenness, want of care, mental weakness, passion, do not excuse from the penalty if the action is grievously sinful; nor does grave fear, if the offence involves public spiritual danger or contempt of the Faith or ecclesiastical authority (can. 2229). When not expressly mentioned, cardinals are not subject to penal laws, nor are bishops to suspension or interdict *latæ sententiæ* (can. 2227). Those below the age of puberty are excused from penalties *latæ sententiæ*, but they are to be corrected by the ordinary methods used in training the young rather than by censures or other more serious vindicatory penalties; their older accomplices or co-operators, however, incur the full punishment (can. 2230).

A medicinal or vindicatory punishment *latæ sententiæ* binds an offender conscious of his fault in both fora; before a declaratory sentence, however, he is excused from observing it as often as his reputation would suffer, and in the external forum he cannot be obliged to heed it unless the fault was notorious. No punishment can be imposed unless it is certain that the crime was committed and also that judgment has not been barred by lapse of time; furthermore, if there is question of inflicting a censure, the offender must first be reprimanded, warned to recede from his contumacy, and given suitable time to repent, should the case admit of delay; if he then remains contumacious the censure may be imposed (can. 2230-31). A judge who in the exercise of his office has imposed a penalty laid down by a superior cannot remit it (can. 2236). An ordinary, however, has wide powers: (a) in public cases, he can remit all penalties *latæ sententiæ* laid down by common law, except in cases which are still in court, or if the censure is reserved to the Holy See, or in case of inability to hold ecclesiastical offices, benefices, dignities, or of loss of active and passive voice, perpetual suspension, infamy of law, loss of the right of patronage and Apostolic privileges or favours; (b) in occult cases, he can personally or by a delegate remit all censures laid down in the common law, except those reserved specially or very specially to the Holy See (can. 2237). See CENSURES; EXCOMMUNICATION; SUSPENSION.

**Curates** (C. E., IV-570), *add*: The right of selecting curates belongs not to the parish priest but to the local ordinary, who, however, should first consult the parish priest (cf. C. E., XI-538d). These assistants may be appointed for the entire parish or for a particular part. They must reside in the parish and it is counselled that they should live with the parish priest, who is to assist in training them in the ministry and report their progress to the ordinary at least yearly. They may be removed at will by the bishop or vicar capitular, but not by the vicar general without a special mandate (can. 476-77).

**Custom** (C. E., IV-576), *add*: If any customs, universal or particular, at present existing and conflicting with the canons of the Code are expressly *reprobated* by the canons they are to be corrected, even if they be immemorial, and they must not be revived in future; others, if centennial and immemorial, may be tolerated if the ordinary judges that under the circumstances they cannot pru-



dently be abolished; the remainder are abolished unless the Code provides otherwise (can. 5). This canon refers expressly to customs *contra legem*, not to those *præter legem*. The period required to legalize any custom is forty years, but if the law contains a clause prohibiting future customs to the contrary, only a reasonable centennial or immemorial custom can become lawful (can. 27; 29). A law does not revoke centennial or immemorial customs nor does a general law abolish particular customs without express mention; but any legalized custom may be revoked by a contrary custom (can. 30).

Among the regulations laid down in the Code which expressly reprobate customs to the contrary are the following: A bishop may select any two clerics he desires to accompany and assist him on visitation; neither he nor any of his suite may on account of the diocesan visitation ask or accept for themselves or friends any kind of gift (can. 346); the right of option in connexion with dignities in cathedral or collegiate chapters is prohibited unless provided for in the deed of foundation (can. 396); when a see is vacant only one

vicar capitular can be lawfully chosen (can. 433); in a parish there should be only one parish priest having care of souls (can. 460); each parish church must have its own baptismal font, however, the vested rights of other churches are to be respected (can. 774); a priest celebrating Mass must observe the rubrics and beware of arbitrarily adding other ceremonies or prayers (can. 818); no one, without special leave of the pope, may receive minor orders with the subdiaconate or two major orders on the same day (can. 978); without express leave of the Holy See local ordinaries or their officials may not ask any payment, when dispensations are being sought, except a small fee to cover the expenses of the chancery (can. 1056); admission to church for the purposes of Divine service must be absolutely free (can. 1181); administrators, lay or cleric, of any church or pious place, canonically erected, or confraternity, must give an account of their administration to the local ordinary yearly (can. 1525); finally, any custom introducing a new matrimonial impediment or contrary to the existing impediments is reprobated (can. 1041).

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**Deacons** (C. E., IV-651b), *add*: No one may receive the diaconate unless he has begun his fourth year's theological studies (can. 976). Deacons may as a matter of course be authorized to preach (can. 1342), but can administer solemn baptism only by permission and in exceptional cases (can. 741); they can expose the Blessed Sacrament at Benediction, but may not bless with the Sacred Host, except when in case of necessity they bring the Viaticum to the sick (can. 1274; 845).

**Defender of the Matrimonial Tie** (C. E., IV-675), *add*: This officer should be a priest and if he is not appointed merely for a special case he holds his position during an episcopal vacancy but requires confirmation by the new bishop (can. 1589-90). He is usually charged with defending the validity of ordinations and frequently acts as diocesan promoter of justice (can. 1588).

**Degradation** (C. E., IV-677), *add*: Degradation is inflicted on those clerics who lay violent hands on the pope (can. 2343), or who have publicly adhered or given their names to non-Catholic sects and remain recalcitrant after warning (can. 2314), or who are guilty of culpable homicide (can. 2354), or of aggravated cases of solicitation (can. 2368); and on religious bound by a solemn vow of chastity or clerics in sacred orders who presume to contract even civil marriage and who are recalcitrant after warning (can. 2388). The ordinary is empowered in public cases to remit this penalty when it has been imposed by the common law (can. 2237).

**Denunciation** (C. E., IV-733), *add*: Clerics and religious joining the Freemasons or other like societies are to be denounced to the Congregation of the Holy Office (can. 2336).

**Deposition** (C. E., IV-738b), *add*: By deposition a cleric is deprived even of a benefice in virtue of which he was ordained, but the ordinary is bound in charity, though not in justice, to see that he is not so poor as to be forced to beg (can. 2303). Deposition may be inflicted on recalcitrant apostates, heretics, or schismatics, after repeated warnings (can. 2314); on those who throw away the consecrated species or who retain them for evil purposes (can. 2320); or who pretend to say Mass or hear sacramental confessions (can. 2322); or who steal corpses or plunder graves for a bad end (can. 2328); or who efficaciously procure abortion (can. 2350); or who are guilty of certain atrocious crimes such as murder, abduction of very young children, usury, incendiarism, slave-traffic, and theft (can. 2354); or who, in major orders, refuse without leave and a just cause to wear the proper clerical dress, and adopt a state of life notoriously incongruous for a cleric, and continue thus for three months after repeated warnings (can. 2379); or who illegally occupy or who enter into possession of a benefice before receiving and exhibiting the proper letters (can. 2394); or who refuse, after repeated warnings, to give up a bene-

fice, office, or dignity, of which they have been deprived. Cases involving deposition are to be tried before a tribunal of five judges (can. 1576). The ordinary has power in public cases to absolve from the penalty of deposition *latæ sententiæ* inflicted by the common law (can. 2237).

**Desecration** (C. E., IV-749; III-282), *add*: A fixed altar loses its consecration if the table is separated from the support even momentarily; in this case the ordinary can permit a priest to reconsecrate it by the short form; hitherto an ordinary required a papal indult to authorize this. Both fixed and movable altars lose their consecration (a) if a large portion or an anointed part is broken off; (b) if the relics are removed or the sepulchre cover is broken or removed, unless the latter is removed by the bishop or his delegate to repair it or to examine the relics; a slight fracture of the cover, however, does not destroy the consecration, and any priest may repair it with cement (can. 1200). A chalice or paten does not require reconsecration after regilding (can. 1305). A church loses its consecration only when it is entirely destroyed, or when the greater part of the walls have fallen or when it has been legitimately turned over to secular purposes by the local ordinary (can. 1170). The desecration of a church does not affect an altar, and vice versa (can. 1200).

**Dignitaries, ECCLESIASTICAL** (C. E., IV-794), *add*: Though the erection of the office of capitular dignitary and the appointment thereto is reserved to the Holy See, a bishop may, with the consent of the chapter, restore the office if it has fallen into abeyance (can. 394).

**Dimissorial Letters** (C. E., IV-797), *add*: A vicar capitular can grant dimissorial letters to seculars before the see has been vacant a year with the consent of the chapter if the candidate is obliged to receive orders by reason of some office which the wants of the diocese require to be filled without delay; but he must never grant them to those who have been rejected by the bishop. Vicars and prefects Apostolic as well as abbots or prelates *nullius*, even when they have not received episcopal consecration, may grant seculars the letters for the reception of all orders (can. 958). Exempt religious cannot be licitly ordained without dimissorial letters from their higher superiors; the letters can be given by religious superiors only for tonsure and minor orders to those subjects who, though destined to make perpetual vows, have as yet made only triennial vows; the case of any other religious is dealt with as if they were seculars (can. 964; 574). The dimissorial letters of a bishop, including the suburbicarian cardinal bishops, may be sent to any bishop in communion with the Holy See and of the same Rite as the candidate (can. 960); those of a religious superior must be sent to the bishop of the place of residence of the religious, unless that bishop allows them to be sent to another bishop, or belongs to a different Rite, or is absent, or is not to confer



orders at the next prescribed time, or has died and his place has been taken by a person not possessing the episcopal character; in such cases, however, the ordaining prelate must be provided with authentic evidence that things are so. Superiors, moreover, are warned not to transfer the candidate or to delay granting the letters in order to have another bishop perform the ceremony (can. 965-67).

**Diocesan Chancery** (C. E., IV-799), *add*: In each curia a priest is to be appointed by the bishop as chancellor; his chief duty is to take charge of the diocesan archives (q.v.), arranging them in chronological order and compiling an index of their contents. He is by the very fact a notary, and if necessary should have an assistant or vice-chancellor. He can be removed or suspended by the bishop, his successors or superior, but not by the vicar capitular without the consent of the chapter (can. 372-73).

**Diocese** (C. E., V-1), *add*: In canon law the word diocese includes abbeys and prelatures *nullius*, and the word bishop includes abbots and prelates *nullius* unless the context shows otherwise. Without a particular Apostolic indult special parishes for the faithful of different races or speech living in the same city or territory may not be created in future; no change is to be made, however, in those already existing without consulting the Holy See. The bishop is to group the parishes of his diocese into larger units known as vicariates forane, deaneries, archpresbyterates, etc. If this seems impossible or inopportune, he is to consult the Holy See, unless it has already provided for the difficulty (can. 215-17). If the bishop's rule is entirely impeded by captivity, exile, or legal disability, ordinarily the vicar general or an ecclesiastic delegated by the bishop takes his place; if the delegate is similarly impeded the cathedral chapter is to nominate its vicar to act with the powers of a vicar capitular; if the bishop should become excommunicated, interdicted, or suspended the metropolitan, or if he is unable or is the bishop in question, the oldest of the suffragan bishops is to notify the Holy See (can. 429).

**Discussions, RELIGIOUS** (C. E., V-34), *add*: Catholics are warned not to engage in religious or moral discussions or conferences, especially public, with non-Catholics, without leave of the Holy See, or, in urgent cases, of the local ordinary (can. 1325).

**Disparity of Worship** (C. E., V-37), *add*: The impediment of disparity of worship now exists only between an unbaptized person and a person baptized in the Catholic Church or converted to the Catholic Church from heresy or schism. Formerly it arose also if the baptized person had received baptism in a heretical or schismatic Church and had never embraced Catholicism. Moreover if at the time of marriage one of the parties was commonly reputed to have been baptized or if his baptism was doubtful, the marriage is to be considered valid until it is proved with certainty that one of the parties had been baptized and the other had not (can. 1070). If a parish priest is certain that a Catholic is about to disregard this impediment or that he has done so, he may not assist at the marriage, unless for very grave reasons, after removing the danger of scandal and consulting the ordinary (can. 1071; 1063). If a dispensation for the marriage has been granted it is forbidden to observe any sacred rites, unless very serious evils would result, in which case the ordinary may al-

low some ceremony but never the celebration of Mass (can. 1102).

**Dispensation** (C. E., V-41), *add*: Though the pope can dispense from all ecclesiastical laws, he rarely does so personally, as he acts usually through the Roman Congregations. Applications are to be made therefore to the Congregation of the Council for dispensations from the disciplinary laws governing the clergy and laity; to the Congregation of the Sacraments regarding the disciplinary laws of the sacraments; to the Holy Office regarding the Pauline privilege, mixed marriages, disparity of worship, and the Eucharistic fast of priests celebrating Mass; and to the Sacred Penitentiary for all dispensations regarding the internal forum, both sacramental and extra-sacramental.

No one except the pope personally or through the Congregations can dispense from the general laws of the Church, even in a single case, unless explicitly or implicitly authorized to do so; ordinaries, however, are empowered to do so if it is difficult to have recourse to the Holy See and at the same time delay would likely result in serious evil, but this is permitted only in cases in which the Holy See is wont to grant a dispensation (can. 81). The power of dispensation is granted to three classes designated as "ordinaries," "local ordinaries," and "parish priests." The word "ordinary" is used to designate: residential bishops, abbots or prelates *nullius* and their vicars-general, administrators, vicars and prefects Apostolic, those legitimately succeeding them in the *ad interim* government of their territory (for instance vicars capitular), and finally the higher superiors in exempt clerical religious orders as far as their own subjects are concerned. Except these religious superiors, all the aforementioned are also known as local superiors (can. 198). The power of the bishops, parish priests, and vicars-general are now of ordinary jurisdiction. The inclusion of the vicars-general among the ordinaries involves an important change, as their power of dispensing now arises from a general mandate, whereas hitherto it was conferred only by special mandate. The power of dispensation granted in the Code belonging generally as it does to ordinary jurisdiction (can. 197) can be delegated in accordance with the general rules governing delegation.

Local ordinaries may dispense from diocesan laws (can. 82), from the laws of national and provincial synods, in particular cases and for just cause (can. 291), but not from pontifical laws specially passed for their dioceses, except when it is difficult to communicate with the Holy See and at the same time there is danger of serious evil in delay (can. 82). A dispensation granted by an inferior without a cause that is, considering the circumstances, just and reasonable, is neither licit nor valid (can. 84).

**Dispensations, MATRIMONIAL** (C. E., V-44a), *add*: A local ordinary may dispense from the publication of the banns of marriage of his subjects for a just cause anywhere; if the parties have different local ordinaries the right belongs to the ordinary in whose territory the marriage is to take place; if it is to be celebrated in a third territory, either of the ordinaries mentioned may dispense (can. 1028). When there is urgent danger of death local ordinaries, in order to secure peace of conscience of the party or parties and to legitimize the offspring, should that be necessary, may dispense their own subjects in any place and all others residing at the moment in their territory from the formalities to

be observed in contracting marriage (presence of a priest and two witnesses), and from each and every impediment, public or occult, whether simple or multiple, of ecclesiastical origin, except those arising from the priesthood and affinity in the direct line if the marriage has been consummated; precautions are to be taken to avoid scandal, and if there is question of disparity of worship or of mixed religion the usual conditions are to be imposed. If a case of this kind arises and it is impossible to go to the ordinary the parish priest or any priest lawfully assisting at the marriage has the same power of dispensing; a confessor possesses it, too, but only for the internal forum in sacramental confession. A local ordinary can dispense from any of the impediments just mentioned if it is discovered when all has been arranged for the marriage and the ceremony cannot be deferred until a dispensation is obtained from the Holy See, without probable danger of grave evil; he is empowered likewise to use these faculties to validate a marriage already contracted, if there is the same danger in delay and time does not allow an application to the Holy See. Under the same circumstances a like power is enjoyed by the parish priest, assistant priest and confessor, as mentioned above, but only for occult cases in which not even the local ordinary can be reached or at least not without danger of violating secrecy; the parish or assistant priest mentioned should, however, at once notify the local ordinary about the dispensation granted in the external forum and the fact should be recorded in the marriage register (can. 1043-46).

Unless it is ordered otherwise by the sacred penitentiary a dispensation granted in the extra-sacramental internal forum is to be recorded in the secret archives of the curia; no other dispensation is necessary for the external forum, even if the occult impediment should ever become public, though it would be necessary if the dispensation had been granted only in the sacramental internal forum (can. 1047). As regards marriage contracted or to be contracted, whoever enjoys a general indult for dispensing from a given impediment can, unless the indult explicitly states the contrary, dispense from it when it is multiple. Whoever has a general indult for dispensing from several impediments of different kinds, whether diriment or impedient, can dispense from these impediments, even if public, occurring in one and the same case (can. 1049, modifying C. E., V-749a). But if an impediment from which he cannot dispense co-exists with one or more over which he has control in virtue of an indult, recourse must be had to the Holy See in connexion with all of them; however, if after obtaining the dispensation from the Holy See, one or more impediments from which he can dispense are discovered he may use his power of dispensation. When a dispensation has been granted from a diriment impediment by ordinary power or power delegated by a general indult, though not by a rescript in particular cases, the offspring, already born or conceived, of those who are dispensed are thereby legitimized, except adulterous or sacrilegious offspring (can. 1050-51).

A dispensation from the impediment of consanguinity or affinity in any degree, if granted, is valid, even if any error as to the degree chanced to be made in the petition or concession, provided the real degree is more remote, or even if another impediment of the same kind in an equal or more remote degree was not mentioned. A dispensation granted by the Holy See in case of an unconsummated marriage or permission granted to contract a new marriage on the presumption of the death

of a spouse, always contains a dispensation from the impediment of crime due to adultery with a promise of or attempted marriage, if necessary, but not from the impediment of crime arising even in part from conjugicide. The ordinary who has given the testimonial letters or who transmitted to the Holy See the petition for a dispensation from public impediments entrusted to the ordinary of the petitioners is to attend to the dispensation when granted, even if the parties, at the time when the dispensation is to be put into effect, having given up their domicile or quasi-domicile, have gone into another diocese never to return, but he is to notify the ordinary of the place where the parties wish to marry (can. 1052-55).

*Expenses.*—Except a small contribution to meet the expense of the chancery in obtaining a dispensation for one who is not poor, local ordinaries or their officials cannot exact any payment for the dispensation without the express permission of the Holy See; any custom to the contrary is reprobated; if they exact anything, they are bound to restitution (can. 1056). Whoever grants a dispensation in virtue of power delegated to him by the Holy See is to make express mention of his pontifical indult (can. 1057).

In canon 4 of the Code is stated that "acquired rights, privileges and indults which have been hitherto granted to physical or moral persons by the Apostolic See and which are still in use and unrecalled, remain in vigour, unless they are expressly revoked by the canons of this Code." On 25 April, 1918, a new decree was issued by the Sacred Consistorial Congregation. After pointing out that many of the powers of ordinaries formerly acquired only by special concession were now granted by the general law, the decree makes the following provisions:

(a) Excepting places subject to the Sacred Congregation for the Propagation of the Faith—for which suitable regulations will be issued at an opportune time—in all dioceses subject to the common law, all faculties granted to ordinaries for the external forum, and contained in twenty-five-year briefs, and ten-year, five-year, three-year formulæ, will cease from 18 May, 1918;

(b) in the more distant places, however, and in others to which, on account of the present war or for some other reason, knowledge of this decree does not come in time, the pope ratifies dispensations and ordinances given in virtue of the old faculties, by the ordinaries, who, however, are bound to conform themselves to this new decree from the day they become aware of it, except in regard to a matter in which they had begun to exercise their old power;

(c) faculties for the internal forum given by the sacred penitentiary, and others granted on account of the present war, or obtained by ordinaries for special reasons are not referred to in this decree and, therefore, are not abolished;

(d) in regard to matrimonial dispensations, though ordinaries have been given wide scope particularly "in urgent danger of death" and "as often as an impediment is discovered when everything is ready for the marriage, and the nuptials cannot be postponed without probable danger of serious evil," the Holy Father considering present conditions has further decreed:

(a) that local ordinaries in America, the Philippine Islands, the East Indies, Africa—except the territories along the coast of the Mediterranean Sea—and Russia, may, for a period of five years from 18 May, 1918, dispense from the minor impediments to marriage (consanguinity in the third de-



gree collateral; affinity in the second degree collateral; public honesty in the second degree; spiritual relationship; crime arising from adultery with a promise or attempt to marry even civilly), while observing the rules laid down concerning matrimonial impediments in general; they may also grant *sanationes in radice* for marriages contracted invalidly on account of one of these minor impediments in accordance with the rules for the revalidation of marriage, but the party who is aware of the impediment is to be warned of the effect of the *sanatio*.

(β) The local ordinaries just mentioned can dispense for the same period of five years from the major impediments of the ecclesiastical law, whether public or occult, even when multiple (except impediments arising from priesthood or affinity in the direct line when the marriage has been consummated) and also from the prohibitory impediment of mixed religion, if the petition for the dispensation has been sent to the Holy See, and in the meanwhile an urgent necessity for the dispensation arises. In granting dispensations, however, in these cases, the ordinary should always bear in mind the rules regarding impediments in general and in particular, and also the clauses usually added in the case of marriages with Jews and Mohammedans; nor should he grant the dispensation until full precautions have been taken for the observance of all these things, in accordance with the prescriptions of the sacred canons, and until the rights of the Sacred Congregation of the Discipline of the Sacraments, regarding the payment of taxes have been provided for.

(γ) The ordinaries of France, the three Kingdoms of Great Britain, Austria, Germany, and Poland, may, during the war, make use of the same faculties as those mentioned immediately above in (α) and (β), as often as access to the Holy See is foreseen to be difficult or impossible for at least a month.

*Irregularities* (C. E., VIII-173), *add*:—Any ordinary may personally or by another dispense his subjects from all irregularities arising from occult crimes, except those arising from crimes brought into the judicial forum and those arising from voluntary homicide or the efficacious abortion of a human foetus or from co-operation in these crimes. Mention is made of the power of dispensing from the irregularity of illegitimacy for the reception of tonsure and minor orders, hitherto enjoyed. Confessors have the same power in urgent secret cases in which it is impossible to reach the ordinary and there is danger of serious evil or scandal, but this power is granted to them only to enable the penitent to exercise licitly the orders he has already received (can. 990).

In asking for a dispensation from irregularities or impediments, all must be mentioned; a general dispensation, however, removes all that are omitted *bona fide* (except those mentioned above in can. 990 as excepted) but not those omitted *mala fide*. In the case of voluntary homicide, the number of offences must be given, under penalty of nullity. A general dispensation to receive orders is valid for major orders, and those who have been dispensed can obtain non-consistorial benefices, even with the cure of souls annexed; but for appointment as cardinal, bishop, abbot or prelate *nullius*, or higher superior in an exempt clerical religious order a special concession is required. Dispensations granted in the extra-sacramental internal forum are to be in writing and an entry concerning them made in the secret archives of the curia (can. 991).

*Ordination*.—Ordinaries can dispense for a just

cause from the publication of the names of secular candidates for orders which is to be made in their parochial churches (can. 998).

*Feasts, fasting, and abstinence*.—Local ordinaries, and even parish priests, in particular cases and for just cause, can dispense their subjects, even when away from their territory, and *peregrini* in their territory from the common law regarding feasts, fasting and abstinence. Superiors in exempt clerical religious orders have the same power over their subjects and those who live in their houses by day and night, such as guests, servants, students. Ordinaries, moreover, can dispense a whole diocese or a place from the laws of fast and abstinence for reasons of health or on an occasion of a great gathering of the faithful (can. 1245).

*Penalties*.—Ordinaries can remit the penalties *latæ sententiæ* imposed by the general law, in public cases, except: (a) when the case has come into the judicial forum; (b) censures reserved to the Holy See; (c) incapacity to receive benefices, offices, dignities, or positions of trust in the Church, or privation of active and passive voice, perpetual suspension, infamy of law, privation of the right of patronage and of privilege or favour granted by the Holy See. In occult cases, the ordinary can, personally or by another, remit all penalties *latæ sententiæ* of common law except censures reserved very specially or specially to the Holy See (can. 2237). Hitherto he could dispense only in the case of light crimes and of suspension for certain occult offenses. In more urgent occult cases if by the observance of a vindictory punishment *latæ sententiæ* a culprit would betray himself, thus incurring infamy and giving scandal, a confessor can suspend in the sacramental forum the obligation of undergoing the punishment, but he must impose on the culprit the obligation of having recourse, at least within a month, by letter and by his confessor, to the Sacred Penitentiary or to a bishop having power to deal with the case, if this can be done without grave inconvenience, and of submitting to his orders. If in any extraordinary case this recourse is impossible the confessor himself may dispense, but subject to those conditions under which he may absolve from censures in similar circumstances (can. 2290; can. 2254). This is a notable change in the extent of powers granted to confessors.

*Subjects*.—The power of dispensing, implying as it does jurisdiction, can be exercised directly only in the case of subjects (can. 201), which means those who have a domicile or quasi-domicile and *vagi* (can. 94), also *peregrini* are to be treated as subjects for purposes of dispensations in the matter of feasts, fasting and abstinence, vows not reserved to the Holy See (can. 1313), and promissory oaths, when the dispensation would not inflict damage on another party (can. 1320).

*Cause for granting dispensations* (C. E., V-45).—There must be a sufficient just cause for the licit granting of a dispensation. If one alleged a false cause or concealed part of the truth, it would not invalidate a dispensation granted from a minor matrimonial impediment, even if the sole motive cause were false (can. 1054); in other cases one true motive cause is sufficient but necessary for validity, even if the rescript contains the words "*motu proprio*."

*Divorce*.—*Declaration of nullity* (C. E., V-59a), *add*: Those who are permitted to impugn the validity of a marriage by complaint before the ecclesiastical courts are: (a) the married parties, in all cases for separation or declaration of nullity, unless

they are responsible for the impediment; (b) the promoter of justice when the impediment is public in its nature; all other parties are restricted to denouncing the marriage as null to the ordinary or promoter of justice (can. 1971). If from a trustworthy, unimpeachable, authentic document it is evident that there has existed an impediment of disparity of worship, orders, solemn vow of chastity, ligamen, consanguinity, affinity or spiritual relationship, and it appears equally certain that no dispensation has been granted from the impediment, the ordinary, after citing the parties and calling in the defender of the bond, can declare the nullity of the marriage, without the necessity of the usual ecclesiastical trial. Unless the defender of the bond is certain that the declaration is justified he must appeal, and the judge of appeal having heard him is to decide whether to confirm the declaration or send the matter back to the court of first instance to follow the regular procedure (can. 1990-92).

*Pauline Privilege* (C. E., V-60), *add*: Before the privilege can be used the baptized convert must ask the unbaptized partner (a) whether he or she is willing to be converted and to receive baptism, and (b) if, at least, he or she consents to live in peace without insulting God. Usually these demands are to be made with the authorization of the convert's ordinary; but they are valid if made privately by the convert, and even licit if the usual procedure cannot be followed, though they would be worthless in the external forum unless corroborated by at least two witnesses or in some other authorized manner. The convert would lose the right to marry again if after baptism he or she gave the unbaptized party just cause for separating (can. 1121-23). The decrees regarding marriage contained in the Constitutions of Paul III, Pius V (C. E., V-61b) and Gregory XIII for certain foreign mission territories have been extended to the adjoining regions. In case of doubt the law favours the Pauline privilege (can. 1125-26). The code states that the dissolution of a marriage, even consummated, between unbaptized persons in virtue of this privilege is in favour of the Faith and is available to baptized converts, but otherwise it does not make any distinction regarding non-Catholics.

*Separation* (C. E., V-63b), *add*: Tacit condonation of adultery takes place if the innocent party after learning of the sin freely continues relations with the culprit; moreover, condonation is presumed unless within six months the guilty party has been dismissed, left, or accused in law (can. 1129).

*Doctor* (C. E., V-72), *add*: Those who have obtained the degree of doctor are entitled to wear

a ring and stone, but not at sacred functions; moreover, other things being equal, doctors and licentiates are to be preferred in the collation of ecclesiastical offices and benefices (can. 1378). Auditors of the Rota must be doctors in *utroque* (can. 1598), the chancellor of the Congregation of Rites, a doctor of canon law (can. 2017), and advocates and procurators in processes of beatifications and canonizations before the same congregation must be doctors of canon law and, also, at least licentiates of theology (can. 2018). Honorary degrees may be conferred by the Congregation for Seminaries and Universities of Studies (can. 256).

*Doctrine, CHRISTIAN* (C. E., V-83).—Priests and other clerics, unless legitimately prevented, must assist their parish priest in teaching Christian doctrine (can. 1333), and if the local ordinary judges it necessary to utilize the services of religious, their superiors, even if exempt, on being requested by him, must personally or by their subjects teach the catechism especially in their own churches, without detriment, however, to religious discipline (can. 1334). Exempt religious, if they teach non-exempt persons, must observe the bishop's regulations concerning religious instruction (can. 1336). Religious superiors should see that the lay brothers and servants receive a catechetical instruction at least twice a month (can. 509).

*Domicile* (C. E., V-103), *add*: Domicile is acquired by residence in a parish or quasi-parish, or at least in a diocese, vicariate or prefecture Apostolic; this residence, however, should either be conjoined with an intention of remaining there permanently if no reason for departing should arise, or be continued for a period of ten years complete (can. 92). Formerly domicile was only parochial, and was never acquired by residence alone. A quasi-parish just referred to is a division of a vicariate or prefecture Apostolic, with its special priest, corresponding to a parish (can. 216); quasi-domicile is acquired in the same way as domicile if the residence is either conjoined with the intention of remaining for at least the great part of a year, or actually prolonged for that time (can. 92). A minor who has ceased to be an infant, that is, who has completed his seventh year (can. 88), can acquire a quasi-domicile of his own, as can a wife not legitimately separated from husband; if she is legitimately separated, however, she can acquire a domicile also. Those who are insane have necessarily the same domicile as their guardians (can. 93), but the Code makes no mention of quasi-domicile in connexion with them.



## E

**Education** (C. E., V-304), *add*: Education of one's children being a primary end of matrimony, giving a child a non-Catholic education is a sufficient reason for granting a matrimonial separation (can. 1013; 1131). Catholic parents or guardians who knowingly entrust their children to be educated or instructed in a non-Catholic religion incur excommunication *latae sententiae* reserved to the ordinary, and are furthermore suspected of heresy (can. 2319).

**Election** (C. E., V-374), *add*: If the right of election belongs to a college, and the president neglects to notify more than one third of the electors, the election is thereby invalid, unless those who were neglected have taken part in it. Convocation of the electors before the vacancy of an office which is to be held for life is juridically null (can. 162). Voting by letter or by proxy is forbidden unless there is a private law to the contrary (can. 163). Voting must be free, secret, and unconditioned; no one can vote for himself validly. After each scrutiny or each session, if more than one ballot has been taken, the votes must be burnt (can. 169-71). The party elected must signify his acceptance or refusal within eight days after receiving notification of the result, otherwise the election is null (can. 175); formerly the period was one month. Unless common law or a private statute expressly declares otherwise, the decision of a collegiate body is to be obtained as follows in order to have the force of law: when the invalid ballots have been eliminated an absolute majority of the votes decides the election; if two polls have failed to secure an absolute majority, a relative majority suffices at the third poll; if that has resulted in a tie, the presiding officer casts a deciding vote; if he should be unwilling to do so, the candidate among those who have obtained the highest vote and who is senior in orders, or by first profession, or by age is selected (can. 101).

The election of the mother superior of a monastery of nuns (*moniales*) is presided over by the local ordinary or his delegate with two assistants to count the votes, who must remain outside of the enclosure; if the nuns are subject to regulars, the regular superior presides; however, in this case timely notice should be sent to the ordinary, so that, if he wishes, he may assist personally or by proxy with the regular superior, and, if he assists, preside. The ordinary confessors of the nuns may not act as the assistants referred to above. In case of the election of a mother general of a congregation the local ordinary of the place of election is to preside personally or by proxy, and may confirm or rescind the election as he thinks proper if the congregation is diocesan (can. 506).

**Error** (C. E., V-525; VII-698a), *add*: Error may be presumed about the private acts of another until the contrary is proved, but as a rule not about a law or penalty or about one's own act or another's notorious act (can. 16). A rescript containing an error as to the name of the grantor or grantee, or of the place, or of the thing in question is not void, if the ordinary judges that there is no doubt

about the identity of the person or thing (can. 47). A single error about the unity, indissolubility, or sacramental dignity of marriage, even if it were a cause of the contract, does not vitiate matrimonial consent (can. 1084); and a dispensation from the impediments of consanguinity or affinity is valid even if an error about the degree occurred in the petition or concession, provided the real degree was more remote (can. 1054).

**Espousals** (C. E., V-542), *add*: A promise of marriage, whether unilateral or bilateral, if not drawn up as prescribed in the decree "Ne temere," is void in both the internal and the external forum. A promise of marriage, even if valid and inexcusably violated, cannot be the basis of an action to compel one to marry, though it gives a just claim for damages if any resulted (can. 1017). The diriment impediment of public honesty arising formerly from valid espousals is now abolished (can. 1078).

**Eucharist** (C. E., V-572), *add*: Provided there is some one to take care of the consecrated host and that Mass is celebrated regularly at least once a week: (a) the Blessed Sacrament should be kept in a cathedral, the principal church of a vicariate Apostolic, a prefecture Apostolic, an abbey or prelatrice *nullius*, in every parish or quasi-parish church, and in churches annexed to exempt religious houses; (b) it may be kept, also, with the ordinary's leave, in collegiate churches and in the principal public or semi-public oratory of pious or religious houses and of ecclesiastical colleges directed by the secular clergy or religious. To keep it in other churches or oratories an Apostolic indult is required; a local ordinary can grant permission for churches or public oratories but only for just cause and incidentally. No one may keep the Blessed Sacrament or bring it with him on a journey (can. 1265). The churches in which the Blessed Sacrament is kept, particularly parish churches, should be open to the public at least a few hours each day (can. 1266). All privileges to the contrary being revoked, the Blessed Sacrament cannot be kept in religious or pious houses except in the church or principal oratory; nor can it be kept within the choir or enclosure of a nun's monastery (can. 1267). It may not be kept continuously or habitually on more than one altar of the same church, and rectors of churches are to see that this altar is more adorned than any other, so that the faithful may be excited to greater piety and devotion (can. 1268). It should be kept in a fixed tabernacle in the middle of the altar. The tabernacle should be artistically constructed, securely closed, adorned according to liturgical regulations; it must contain nothing but the Blessed Sacrament and must be guarded carefully against all danger of profanation. For grave reason with the local ordinary's permission the Holy Eucharist may be removed from the altar to be kept during the night in a fitting, safer place, in which case it is to be laid on a corporal, and a light must be kept burning before it. The priest in charge of the church or ora-

tory is bound gravely in conscience to guard the tabernacle key most carefully (can. 1269).

A sufficient number of consecrated hosts to meet the wants of the sick and the faithful are to be kept constantly in a solidly constructed tightly closing pyx, with a white silk embroidered cover (can. 1270). In churches or oratories in which the Blessed Sacrament is kept there may be private exposition in the pyx for any just cause without the ordinary's leave; there may be public exposition in the monstrance in all churches during the Masses and continuing to Vespers on Corpus Christi and within the octave; at any other time this is forbidden without a just grave cause and the ordinary's leave, even in a church belonging to exempt religious. The Forty Hours' devotion is to be held yearly in churches in which the Blessed Sacrament is reserved; if for any special reason this cannot be done with due reverence the local ordinary should arrange to have exposition with greater solemnity than usual for some hours on stated days (can. 1274-75).

**Examination** (C. E., V-673), *add*: The local ordinary or religious superior who has granted a licence to preach after the required examination, may insist on a second examination later, if a doubt arises in connexion with the orthodoxy of the preacher's teachings (can. 1340). Before appointing a priest to a parish, the local ordinary should test his knowledge by an examination held in his own and the synodal examiner's presence; but, with the synodal examiner's consent, he may dispense from the examination in case of a priest who is known to be skilled in theology; where, however, the provision of parishes is made by a concursus, that practice is to be continued until the Holy See decrees otherwise (can. 459). An ordinary may examine anyone before confirming, admitting, or instituting him in any ecclesiastical office (can. 149). All priests, even those holding parochial or canonical benefices, must, unless exempted by the local ordinary for just cause, be examined yearly in sacred science, for the three years following the completion of their studies; the matter for the examination and the manner in which it is to be held are to be determined by the ordinary (can. 130); priests in religious orders are to be examined similarly by some of the grave and learned fathers for a period of five years after completing their studies, unless exempted by their higher superiors or when they are teaching theology, canon law, or Scholastic philosophy (can. 590).

**Examiners, SYNODAL** (C. E., V-676), *add*: In each diocese there are to be not less than four nor more than twelve synodal examiners, the bishop deciding the exact number required. Their names are proposed in the synod by the bishop and approved by the members of the synod (can. 385). If one or more of them should die or vacate his position in the interval between two synods, the bishop, on consulting the cathedral chapter, appoints a substitute (can. 386). After holding office for ten years or earlier, if a new synod occurs sooner, their tenure ceases, but they may complete any work they have begun, and may be re-appointed. The substitute examiners mentioned above retain their positions only during the unexpired portion of their predecessors' time (can. 387). They cannot be removed by the bishop, except for grave cause and after consulting the cathedral chapter (can. 388). The chief duties of the synodal examiners are to examine candidates for parochial benefices and to assist the bishop in the proceedings concerning the

removal or transference of parish priests; and they may be appointed by the bishop to conduct examinations for faculties and for the recently ordained priests (can. 389). An examiner may be a parochial consultor but he may not act in both capacities in the one case (can. 390).

**Excommunication** (C. E., V-678), *add*: An excommunicated person is either *toleratus* (one who is tolerated) or *vitandus* (one to be shunned); no one is to be considered a *vitandus* unless he has been excommunicated by the Holy See by name, has been publicly denounced as such, and has been expressly declared a *vitandus* in the decree or judgment, or has incurred excommunication very specially reserved to the Holy See for laying violent hands on the pope. An excommunicated person may be present at sermons if he so desires, but he has no right to assist at Divine services; which are explained (can. 2256) as exercises of the power of orders instituted by Christ or the Church for the purpose of Divine worship and which can be performed by clerics alone. If a *vitandus* is present he must be expelled, or if that be impossible, the service must be stopped if that can be done without grave inconvenience; moreover even a *toleratus*, who is publicly known to be excommunicated or on whom such sentence has been judicially passed, must be excluded from active participation in Divine service. No excommunicated person may receive the sacraments, nor may he after judicial sentence receive the sacramentals or be buried from the church, unless before his death he gave some signs of repentance (can. 2258-60). Priests may say Mass privately for the excommunicated or their intentions, if there is no danger of scandal, though in case of a *vitandus* the Mass may be offered only for his conversion.

An excommunicated person is excluded from legitimate ecclesiastical acts, specified (can. 2256) as follows: administration of ecclesiastical property; acting in ecclesiastical courts as judge, auditor, relator, defender of the matrimonial bond, promotor of justice or of faith, cursor, apparitor, advocate or procurator; acting as sponsor; voting at ecclesiastical elections; and exercising the right of patronage. However, *vitandi* and others after a declaratory or condemnatory sentence may personally contest in court the justice or legitimacy of their excommunication, and may employ a procurator to ward off any spiritual danger, but in any other case they have no standing. Excommunication is an impediment to holding ecclesiastical office and deprives one of the enjoyment of privileges previously granted by the Church. Any act of jurisdiction of an excommunicated person in either forum is illegal; and if a declaratory or condemnatory judgment had been passed, such act would be invalid, except absolving a penitent in danger of death or administering the other sacraments and sacramentals under the same circumstances if no other priest was present; otherwise it is valid, and even licit, if requested by the faithful as above (can. 2261; 2264). No excommunicated person: (a) has the right of election, presentation or nomination; or (b) may receive any dignity, office, benefice, ecclesiastical pension or other post in the Church; or (c) may be promoted to orders; however, if provisions a and b have not been observed, the act is not null and void unless it was performed by a *vitandus* or other excommunicated person after sentence; if this sentence was passed, the excommunicated person cannot validly obtain any pontifical favour, unless the excommunication is mentioned in the pontifical



rescript. An excommunicated person after sentence is deprived of the fruits of any ecclesiastical dignity, office, benefice, pension, or post he may hold; and a *vitandus* is deprived of the dignity, etc., itself. Lastly, the faithful must not entertain civil relations with a *vitandus*, though this does not apply in the case of spouses, parents, children, servants, subjects, or generally where there is a reasonable motive for the contrary (can. 2265-67).

All penalties and excommunications hitherto in force in the Church, such as those enumerated in the Constitution "Apostolicæ Sedis" and given in detail in the C. E., V-686 sqq., are abolished and replaced by those mentioned in the Code (can. 6). Excommunications are now divided into five categories, according as they are reserved: (a) very specially to the pope; (b) specially to the pope; (c) simply to the pope; (d) to the bishop; (e) to no one. Of these the first class, though admitted by canonists, was not hitherto formally recognized by the law.

I—*Excommunication very specially reserved to the pope* is incurred by:—(a) Those who throw away the consecrated species or carry them off or retain them for an evil purpose (can. 2320).

(b) Anyone laying violent hands on the pope; such a culprit, moreover, is by the very fact a *vitandus* (can. 2343).

(c) A confessor who absolves or pretends to absolve an accomplice in a sin against chastity, except when there is danger of death and there is present no other priest, even one lacking approbation, who could hear the confession without great danger of the guilt of the priest being made known or of giving scandal; or if the dying person refuses to confess to another priest. Furthermore, the same penalty would be incurred if the guilty priest heard the confession of his accomplice, who at the direct or indirect instigation of the priest omitted mentioning the sin from which he had not been already absolved (can. 2367). It is to be noted that the censure is not avoided by pretence at absolving or when the sin is not mentioned at the confessor's instigation.

(d) A confessor who presumes to violate the seal of confession directly (can. 2369).

II—*Excommunication specially reserved to the pope* is incurred by:—(1) All apostates from the Christian Faith, heretics and schismatics (can. 2314). Formerly this section included those who gave credence to, received, countenanced, or defended apostates or heretics. Though absolution from this censure is reserved in the forum of conscience to the pope, yet, if the crime of apostasy, heresy, or schism has been brought in any way before the local ordinary in the external forum, he, but not the vicar-general without a special mandate, may absolve the culprit in the external forum by his ordinary power, and then any confessor can absolve him from the sin. Before the local ordinary grants absolution from the censure the culprit must abjure his error in the presence of the ordinary or of his delegate and of at least two witnesses. If a person is suspected of heresy he is to be warned; if the warning is neglected, he is to be debarred from legal acts; if he remain recalcitrant for six months longer he is to be deemed a heretic and incurs the penalties imposed on heretics (can. 2315). Among those suspected of heresy are: (a) all who freely and knowingly help in any way to propagate heresy or who participate actively in non-Catholic worship, or even passively at non-Catholic funerals, marriages, and such other functions, if there is danger of perversion or scandal, or if more than civil honour is shown thereby (can. 2316; 1258); those

who contract marriage with an explicit or implicit agreement to bring up any or all of the children as non-Catholics, or who knowingly presume to hand over their children to a non-Catholic minister for baptism; or parents or guardians who knowingly hand over their children to be educated or instructed in a non-Catholic religion; those who throw away the consecrated species, or carry them off or retain them for an evil purpose (can. 2320); those who appeal from the pope to a general council (can. 2332); those who deliberately remain a year under sentence of excommunication (can. 2340); and those who are guilty of simony in the reception or administration of the sacraments (can. 2371).

(b) Those who publish books written by apostates, heretics, or schismatics, advocating apostasy, heresy, or schism,—the censure is incurred only when the work has been actually published—and all who defend or knowingly and without due permission read or keep those books or others prohibited by name by Apostolic letters (can. 2318). The former legislation mentioned the printers but not the publishers of these forbidden books, and made no reference to writings of schismatics or to works upholding apostasy or schism.

(c) Anyone not a priest, who pretends to celebrate Mass or hear sacramental confession (can. 2322); a new censure.

(d) Certain crimes regarding papal elections mentioned by Pius X in his Constitution "Vacante Sede Apostolica" of 25 Dec., 1904 (can. 2330). The following thus incur excommunication: Cardinals who when not prevented by ill health do not obey the signal when given for the third time to assemble during the conclave for a scrutiny (§ 37); those sending written or printed writings or letters into or more especially out from the conclave, which have not been submitted for examination to the secretary of the Sacred College and of the prelates in charge of the conclave; it is, moreover, absolutely forbidden for anyone to send daily papers or periodicals out of the conclave (§ 50); cardinals or attendants present at the conclave who violate the obligation of secrecy regarding the election or what takes place in the conclave or place of election (§ 51); cardinals who reveal to their attendants or anyone else matters relating directly or indirectly to the voting, or to the proceedings or decrees of the assemblies of the cardinals held before or during the conclave (§ 52); those guilty of simony (§ 79); those, even cardinals, who during the lifetime of the pope and without his knowledge presume to treat of the election of his successor or to promise their vote or who discuss the matter or come to any decision regarding it at private meetings (§ 80); anyone taking part in the conclave who even as the result of a mere desire has undertaken to propose the Veto on behalf of any civil power in any way to any or all of the cardinals before or during the conclave; and what is said of the Veto applies to every kind of attempt by a laic or by the secular power to meddle in a papal election (§ 81); cardinals who make agreements or promises or in any way bind themselves to give or refuse their vote to anyone,—this, of course, does not refer to the discussions that take place during the vacancy (§ 82); and, finally, anyone who dares to disregard letters written by the pope after his acceptance of office and before his consecration (§ 88). Except where there is danger of death absolution from the excommunication inflicted for these offences can be given by the pope alone, even the major penitentiary being without faculties for granting it.



(e) All those, not excluding sovereigns, bishops and cardinals, who appeal from the laws, decrees, or mandates of a reigning pontiff to a general council (can. 2332). The new legislation, unlike the old, makes no distinction between present and future councils; moreover nothing is now said expressly about those who coöperate by giving aid, counsel, or countenance to such appeals.

(f) Those who have recourse to any lay power to impede the letters or documents of the Holy See or of its legate or to prevent their promulgation or execution directly or indirectly, or who on account of these letters or documents injure or intimidate those interested in them, or any others (can. 2333).

(g) Those who publish laws, mandates, or decrees against the liberty or rights of the Church; or who directly or indirectly impede the exercise of ecclesiastical jurisdiction of the internal or external forum, and have recourse for that purpose to any lay power (can. 2334).

(h) Those who, without due permission of the Holy See, dare to cite before a lay judge a cardinal, a papal legate, or a higher official of the Roman Curia in matters pertaining to their own office, or who thus cite their own ordinary (can. 2341); there are fewer persons protected by this enactment than under the old legislation.

(i) Those who lay violent hands on cardinals, legates, patriarchs, archbishops or bishops, even titular (can. 2343).

(j) Those who usurp or retain personally or otherwise the property or rights of the Roman Church (can. 2345).

(k) Those who forge or falsify letters, decrees, or rescripts of the Holy See, or who knowingly make use of such letters (can. 2360).

(l) Those who directly or indirectly bring a confessor before his superiors on a false charge of solicitation (can. 2363). This is a new censure, from which absolution is not to be given until the culprit formally retracts the charge, makes all the reparation possible, and accepts a severe penance.

III.—*Excommunication simply reserved to the pope* is incurred by:—(a) Those who traffic in indulgences (can. 2327); formerly traffickers in other spiritual favours besides indulgences were mentioned.

(b) Those who join the Freemasons or other associations of the same kind that scheme against the Church or legitimate civil authorities (can. 2335); the penalty was formerly expressly directed also against all who countenanced these sects in any way and all who did not inform against the occult chiefs or leaders.

(c) Those who, without the requisite faculty, presume to absolve from excommunications specially or very specially reserved to the Holy See (can. 2338).

(d) Those who help or favour anyone in connexion with a crime for which he was declared a *vitandus*, and all clerics who knowingly and freely communicate with him *in divinis* and admit him to Divine service (can. 2338).

(e) Those who, without leave of the Holy See, dare to cite before a lay judge a bishop (other than his own) even titular, or an abbot or prelate *nullius*, or any of the higher superiors of a religious order approved or lauded by the Holy See (can. 2341).

(f) All persons of whatever kind, condition, or sex, violating the canonical enclosure of nuns having solemn vows (*moniales*), by penetrating into their monasteries without lawful permission, and those introducing or admitting them; likewise, all professed nuns who leave the canonical enclosure

without due permission; also, all women who encroach on the enclosure of male regulars, and superiors and all others introducing or admitting them, whatever their age may be (can. 2342). The wording of this section varies slightly from that of the old law; the censure for violating convent enclosure was formerly incurred by those who had not attained puberty; they are now, however, exempt from all censures (can. 2230).

(g) Those who presume to usurp and convert to their own use, directly or indirectly, any church property or who prevent those who have a right to receive the income from obtaining it (can. 2346).

(h) Those who fight duels or who challenge or accept challenges thereto or who aid or countenance such, or who are present designedly at such combats and permit them or do not prevent them as far as lies in their power (can. 2351).

(i) Clerics in major orders and regulars and nuns having solemn vows who presume to contract marriage even civilly and also all persons who presume to attempt marriage with them (can. 2388); formerly this censure was reserved to the ordinary.

(j) Those who are guilty of simony in connexion with any ecclesiastical office, benefice or dignity (can. 2392).

(k) The vicar capitular as well as any other member of the chapter or any extorn who directly or indirectly takes away or destroys or conceals or substantially changes any document belonging to the episcopal curia (can. 2405); a new censure.

IV. *Excommunications reserved to the ordinary* are incurred by:—(a) Catholics, who even when a Catholic service has preceded or is to follow, personally or by proxy renew or give their matrimonial consent before a non-Catholic minister, unless when in accordance with the civil law for merely civil effects they go before him purely as a civil registrar; or who marry with an explicit or implicit agreement to educate any or all of the children outside the Catholic Church; or who knowingly presume to offer their children for baptism to non-Catholic ministers; or parents or guardians who knowingly hand over their children to be educated or instructed in a non-Catholic religion (can. 2319); formerly these Catholics incurred a censure specially reserved to the Holy See.

(b) Those who prepare or who knowingly sell, distribute or expose false relics for public veneration (can. 2326); a new censure.

(c) Those who lay violent hands on religious of either sex and on clerics not mentioned above as protected by severer censures (can. 2343); this censure was formerly reserved simply to the pope.

(d) Those who efficaciously procure abortion, the mother not excepted (can. 2350); the censure has been extended to the mother.

(e) Religious of lay or non-exempt communities who leave their houses unlawfully with the intention of not returning (can. 2385); a new censure; if the religious belongs to an exempt order the censure is reserved to his higher superior.

(f) All those belonging to an order or to a congregation who being professed with simple perpetual vows presume to contract even civil marriage—and their partners (can. 2388); a new censure.

V. *Excommunication reserved to no one* is incurred by:—(a) Authors and publishers who have books of Scripture or annotations or commentaries thereon, printed without due permission (can. 2318); formerly it was the printers, not the publishers, who were expressly censured.

(b) Those who dare to order or compel the granting of ecclesiastical burial to infidels, apostates, or heretics, schismatics or others, whether excommuni-

cated or interdicted by declaratory or condemnatory sentence (can. 2339); formerly no mention was made of infidels, apostates, or schismatics, while only notorious heretics and those excommunicated or interdicted by name were censured.

(c) Those who knowingly omit obtaining the consent of the Holy See, when necessary, to alienate church property, and all who take part in the transaction by giving, receiving, or consenting (can. 2347).

(d) Anyone, no matter how exalted, who in any way forces a person to become a cleric or to enter religion or to be professed, whether simply or solemnly, temporarily or perpetually.

(e) Those who refuse to denounce within a month according to law a confessor by whom they have been solicited; absolution is not to be given until they do so or at least promise seriously (can. 2368).

**Exemption** (C. E., V-706; XII-754), *add*: If a regular who is legitimately outside of his house returns after committing an offence, he may be punished by the local ordinary, if his superior on being notified does not impose a penalty on him (can. 616). A local ordinary is obliged to notify the Holy See if the superior of an exempt religious house fails to reform abuses, after his attention has been drawn to them; if the house is not yet fully established and the abuses cause scandal the local ordinary may, pending the reply from Rome intervene to correct them (can. 617). In the case of pontifical lay religious institutes, the local ordinary may and should investigate and see if the constitutions are enforced, the religious spirit upheld, the enclosure observed, and the sacraments duly received (can. 618). He may and ought to visit hospitals, orphanages, and other such charitable institutions, even if they have been erected into moral persons and granted exemption, and, all customs to the contrary being reprobated, he has the right of demanding an accounting from such in-

stitutes, even if they are exempt from his jurisdiction and right of visitation by the terms of their foundation or by prescription or Apostolic privilege (can. 1492). A cardinal's chapel is exempt from episcopal visitation (can. 239), and a seminary is exempt from the jurisdiction of the parish priest (can. 1368).

**Extreme Unction** (C. E., V-716), *add*: Every priest, but only a priest, can administer extreme unction validly; the ordinary minister is the parish priest of the place where the invalid is, but in case of necessity any priest can act with the reasonably presumed leave of the parish priest or local ordinary and is bound in charity to do so (can. 939-40). The chief cathedral dignitary or canon available is the minister of extreme unction for a sick bishop; a clerical religious superior, for those living day and night in his house; the confessor or his substitute, for nuns with solemn vows (*moniales*), but in other lay communities the local parish priest or a chaplain specially appointed by the bishop (can. 514; 464).

Extreme unction cannot (*non potest*) be repeated in the same illness, unless the invalid after being anointed rallies and later again falls into danger of death (can. 940). It is unlawful to neglect extreme unction and the greatest care should be taken in order that the sick may receive it while fully conscious (can. 944); it should be administered unconditionally to those who, though unconscious, have previously asked for it at least implicitly (can. 943). In case of necessity the anointing of one sense, or more correctly of the forehead, with the prescribed shorter formula suffices, but when the danger is passed the separate anointings are to be supplied. The anointing of the feet may for good cause, and the anointing of the loins must always, be omitted. Except in a case of grave necessity the holy oil must be applied by the minister's hand, not by means of an instrument (can. 947).

## F

**Faculties** (C. E., V-748), *add*: Habitual faculties perpetually or for a definite time or for a number of cases are counted among the *leges præter jus*; not being considered *contra ius* may consequently be interpreted liberally. Grant of a faculty carries with it the concession of all powers requisite for its use (can. 66).

**Fasting** (C. E., V-789), *add*: The law of fasting is obligatory on Ember Days; on the vigils of Ascension, the Assumption, All Saints', and of Christmas, but if one of these vigils falls on Sunday it is no fast, neither is it to be anticipated; from Lent up to Holy Saturday at noon, except Sundays; on other feast days of precept the law is only during Lent (can. 1252). In addition to the principal meal, at which, if the day is not one of abstinence, flesh may be eaten without an indulgence; the law allows some food to be taken both in the morning and in the evening, the quantity and kind of food being determined by approved custom; it is lawful also to interchange the order of taking dinner and the evening light meal, and flesh are no longer forbidden at the same time (can. 1251). Changes introduced by the Code regarding fasting do not affect special indulgences imposed by vow or by the rules of religious orders or of men or women living in community without vows (can. 1253); nothing, however, is stated in the Code regarding the Advent fast hitherto observed in the English-speaking countries. Finally, the law of fasting is binding on those who have completed their twenty-first year at their fifty-ninth (can. 1254). Regarding the obligation of a person to fast on the twenty-first anniversary of his birth if it falls on a fast day, it should be noted that when the term from which a fast is reckoned does not coincide with the beginning of a day the first day is not reckoned and the period ends with the completion of the last day of the same number (can. 34).

**Fear** (C. E., VI-20), *add*: Any act done as the result of grave fear unjustly caused is valid unless the law provides otherwise; however, it can be rescinded by judicial authority (can. 103). Relatively grave fear excuses from a merely ecclesiastical law; it only decreases imputability, if the act is intrinsically wrong or militates against public good, ecclesiastical authority or the faith (can. 2205), but in as far as the fear excuses from imputability in the external forum it excuses likewise from penalties *latæ sententiæ* (can. 2218).

**Feasts, ECCLESIASTICAL** (C. E., VI-21; XIV-342), *add*: The only feast days of obligation for the entire Church are: all Sundays, the Nativity, Circumcision, Epiphany, Ascension of Our Lord, the Immaculate Conception, the Assumption, Sts. Peter and Paul's, All Saints', and Corpus Christi and St. Joseph's. Where any of these feasts has been lawfully abolished or transferred, no change is to be made without consulting the Holy See (can. 1247). Local ordinaries can appoint certain days as feasts in their own territories but only incidentally; they and parish priests can in individual cases and for just cause dispense individuals or a particular family from the obligation of observing feasts; exempt clerical superiors have the same power in regard to those subject to them (can. 1245). On holidays of obligation the faithful must hear Mass, and abstain from servile work, legal proceedings, and unless otherwise authorized by legitimate custom or special indulgence, from public trade, buying, and selling (can. 1248).

**Forgery** (C. E., VI-135), *add*: The wording of the excommunication (C. E., V-687c) relating to papal documents has been changed; see above EXCOMMUNICATION, can. 2360 and can. 2405, and also ABUSE OF ECCLESIASTICAL POWER, can. 2406.



## H

**Heresy** (C. E., VI-260d), *add*: Heretics cannot act as sponsors (can. 768; 795), or receive Catholic burial (can. 1240), or acquire or retain the right of patronage (can. 1453; 1470). Excommunication specially reserved to the pope is still incurred by heretics, but not by those who receive, favour, or defend them (can. 2314). Those who take an active part in non-Catholic rites are suspected of heresy, as are those who are passively present if there is danger of scandal or of perversion (can. 2316; 1258).

**Holy Communion** (C. E., VIII-40), *add*: For grave reasons the local ordinary or parish priest may allow a deacon to act as extraordinary minister of Holy Communion, and in case of necessity their permission may be presumed (can. 845). Any priest may bring Holy Communion to a sick person privately with the leave—at least presumed—of the priest who has care of the Blessed Sacrament (can. 849). A priest should distribute Holy Communion under the form of unleavened or leavened hosts according to his Rite, except in case of necessity when there is no priest of the proper Rite present; under such circumstances, however, the minister is to observe the ceremonies of his own Rite (can. 851). Secret sinners who desire to receive Holy Communion privately are to be refused if the minister knows they are unrepentant, but not, if they approach publicly and cannot be passed by without scandal (can. 855). All who have reached the use of reason are obliged to receive Holy Communion at least about Easter each year, unless their spiritual director for just reasons tells them to refrain temporarily. This Easter precept is to be fulfilled between Palm Sunday and Low Sunday, but the local ordinary may extend the time from the fourth Sunday of Lent to Trinity Sunday, if circumstances so demand. The Paschal

Communion may be received in any parish, preferably the recipient's; those who receive it outside of the parish should tell their pastor that they have fulfilled their duty. If for any reason the Paschal Communion has not been received within the proper time, the obligation still remains (can. 859); moreover, the precept is not fulfilled by a sacrilegious communion (can. 861). The faithful may receive Holy Communion according to any Rite, but it is desired that they should fulfil the Easter precept in their own Rite. Holy Communion, which may be distributed only during the hours when Mass may be said, unless for just reasons, may now be received by the faithful on Holy Saturday, but only during Mass or immediately after. A priest saying Mass must not give Holy Communion during Mass to persons at such a distance that he cannot see the altar. Holy Communion can be given wherever it is permitted to say Mass, even in a private oratory, unless the local ordinary for just causes prohibits that in particular cases (can. 866-69).

**Homicide** (C. E., VII-422c), *add*: A lay person guilty of homicide is thereby incapable of legal ecclesiastical acts and is excluded from any office he may have had in the Church. An actual assassin carrying out the orders of his principal is subject to the same punishment (can. 2354; 2231).

**Hours, CANONICAL** (C. E., VII-500), *add*: In religious houses of men or women bound to recite the office in choir, in which there are present four members so bound and not lawfully prevented, and even less if so provided in the Constitutions, the office must be recited in common. In such institutes solemnly professed members who have been absent from choir, except lay-brothers, must recite the hours privately (can. 610).

**Ignorance** (C. E., VII-648), *add*: No ignorance of invalidating or inhabilitating laws excuses from their effects, unless this is stated expressly in the law. Ignorance or error about a law, penalty, one's own act, or the notorious act of another is as a rule not presumed; but till the contrary is proved it is presumed in regard to a non-notorious act of another (can. 16). Affected ignorance of a law or of the penalty only does not excuse from penalties *latæ sententiæ*, except when the law contains the words "presumes," "dares," "knowingly," "of set purpose," "rashly," or other such terms implying full knowledge and deliberation. Crass or supine ignorance of the law or of the penalty alone does not excuse from penalties *latæ sententiæ*; if the ignorance is not crass or supine it excuses from medicinal but not from vindictory punishments *latæ sententiæ* (can. 2229). Ignorance of irregularities or impediments does not excuse from contracting them (can. 988).

**Images, Veneration of** (C. E., VII-664), *add*: Extraordinary images may not be exposed in churches, even exempt, or other holy places, unless approved by the local ordinary, who is not to authorize for public veneration images out of harmony with the approved custom of the Church. If the images represent erroneous dogma or are unbecoming or would lead the unlearned into dangerous errors they must be rejected or banished. The blessing of images exposed for public veneration is reserved to the ordinary, who may delegate his power to any priest. Images, noted for their antiquity, art, or as objects of devotion, if exposed in churches or public oratories for the veneration of the faithful, must not be renovated without the written consent of the ordinary, who before granting it is to consult with persons of good judgment and experts in art. Such images cannot be validly alienated or transferred perpetually to another church with leave of the Holy See (can. 1279-81).

**Impediments, CANONICAL** (C. E., VII-695), *add*: A public impediment is one that can be proved in the external forum; otherwise it is termed occult (can. 1037). A local ordinary can forbid marriage in a particular case, but only temporarily and for a just continuing cause, to all persons living in his diocese and to his subjects while outside of it (can. 1039). The following impediments are considered of minor grade: (a) Consanguinity in the third degree collateral; (b) affinity in the second degree collateral; (c) public honesty in the second degree; (d) spiritual relationship; (e) crime arising from adultery with a promise of marriage or an attempted marriage even merely civil. All other impediments are of major grade (can. 1042). The impediment arising from betrothal is abolished and important changes introduced concerning forbidden times, age, adoption, disparity of worship, abduction, consanguinity, affinity, public honesty, spiritual relationship, and crime.

**Incapacity**, a vindictory punishment inflicted by the Holy See alone on the faithful in virtue of

which the culprit is disqualified from receiving or holding an ecclesiastical office or benefice, or from enjoying ecclesiastical favours not exclusively clerical, or from obtaining academic degrees conferred by ecclesiastical authority (can. 2291; 2298). It can be remitted only by the Holy See, except under the circumstances in which an ordinary is permitted to absolve, in occult cases, from censures reserved simply to the pope (can. 2237). It is incurred by the very fact by a person who is infamous by law (can. 2293); or who knowingly consents to his election to a benefice or office in which laics or the secular power have illegally intervened (can. 2390); or who usurps an ecclesiastical office or benefice or takes possession thereof before showing his letters of confirmation to the proper authority (can. 2394); or who knowingly accepts a benefice or office and allows himself to be put in possession before it becomes legally vacant (can. 2395); or who, being a cleric, usurps or retains personally or by another the property or rights of the Roman Church; or anyone who presumes to convert to his own use any ecclesiastical property, or to prevent the lawful holder from enjoying its fruits (can. 2345-46); or a priest guilty of solicitation (can. 2368). The penalty is to be imposed on reverend mothers or their subjects, who induce any member of the community to conceal the truth when questioned by the visitor, or who annoy a member for having answered the visitor, and on a reverend mother who after the visitation transfers a member of the community to another house against the wish of the visitor (can. 2413).

**Incardination and Excardination** (C. E., VII-704), *add*: Every cleric must be attached to some diocese or religious institute, incardination in a pious place being now forbidden; by first tonsure he is incardinated in the diocese for the service of which he has been promoted (can. 111). Letters of excardination and incardination are invalid unless signed by the ordinaries authorized to grant them; a vicar general requires a special mandate to issue them, as does a vicar capitular, unless the see has been vacant more than a year, and even then he requires the consent of the chapter (can. 112-13). However if a cleric receives a residential benefice from the ordinary of another diocese and has the written consent of his own ordinary either to accept it or to leave the diocese permanently he is thereby incardinated in the new diocese (can. 114). A cleric is excardinated from his diocese by perpetual religious profession (can. 115). If a religious in sacred orders has thus lost his diocese and afterwards in virtue of an indult of secularization leaves the religious life he may be received by a bishop unconditionally or on trial for three years. In the former case he is thereby incardinated; in the latter, at the end of the time of trial, which the bishop may extend, but not beyond another three years, if he has not been dismissed he is by the very fact incardinated in the diocese (can. 641). Such a religious may not exercise his orders until he has found a bishop to receive him or unless the Holy See has provided otherwise, but this prohibition does not now bind religious who had only



temporary vows and who have been secularized or did not renew their vows,—they are to return to their own diocese and are to be received by their bishop (can. 641). This right of the bishop to receive, on trial a former religious, even one who has been expelled (can. 672), is an innovation.

**Incest** (C. E., VII-717), *add*: Laics legally declared guilty of this crime are thereby infamous; clerics in minor orders may be expelled from the clerical state, while those in major orders may be deprived of their benefices and even deposed (can. 2359).

**Indulgences** (C. E., VII-783), *add*: No one but the pope can (a) grant to others the power of conceding indulgences, unless that privilege has been granted expressly by Apostolic indult, or (b) grant indulgences applicable to the dead, or (c) annex indulgences to any pious act or thing or sodality membership, to which other indulgences have been granted by the pope or another person, unless new conditions to be fulfilled for gaining them are imposed (can. 913). Those who have obtained from the pope a concession of indulgences for all the faithful are obliged to bring an authentic copy of the concession to the sacred penitentiary, otherwise the concession becomes invalid (can. 920). New indulgences granted to churches, even of regulars, which have not been promulgated in Rome must not be made public without the local ordinary's knowledge; moreover, in publishing in books, pamphlets, etc., collections of indulgences for prayers or pious works the license of the ordinary or of the Holy See must be obtained, as required by the law of censorship (can. 919).

Plenary indulgences granted for the feasts of Our Lord or the Blessed Virgin are to be gained only on the feasts contained in the universal calendar; so, too, those granted for the feast of an Apostle are to be gained only on the feast commemorating his death. A plenary indulgence granted as *quotidiana perpetua* or *ad tempus* (daily and perpetually, or temporarily), for visiting a church or public oratory can be gained on any day but only once a year, by each of the faithful, unless it is otherwise expressly stated in the decree. Indulgences granted for feasts or for pious practices performed for three days, a week, or for nine days, before or after a feast, or during the octave are transferred to any day to which the feast has been legally transferred, if the feast transferred has an office with a Mass without solemnity and external celebration and if the translation is perpetual, or if the solemnity and the external celebration are transferred either temporarily or perpetually. If a visit to a church or oratory is annexed as a condition for gaining an indulgence on any day, the visit can be made any time between noon on the preceding day and midnight terminating the day mentioned (can. 921-23). If a church to which an indulgence has been annexed is entirely destroyed the indulgence does not cease if the church be rebuilt within fifty years in the same or almost the same spot and under the same title; and indulgenced beads or objects lose their indulgence only when they are entirely destroyed or sold (can. 921-24).

A plenary indulgence is so granted, that if one fails to gain it entirely, he can gain a partial indulgence according to his disposition (can. 926). A plenary indulgence for a given pious exercise can be gained only once in a day, whereas a partial indulgence can be gained as often as the exercise is repeated, unless in either case the contrary is expressly stated (can. 928). If the contrary is not

expressly stated indulgences granted by a bishop can be gained by any one actually within his diocese (can. 927). No one can gain indulgences for the living, but all papal indulgences are applicable to the dead, unless the contrary is stated (can. 930). To gain indulgences one must be baptized, not excommunicated, and in the state of grace at least when finishing the works prescribed; moreover, one must have at least a general intention of gaining them and must perform the works prescribed at the time and in the manner laid down (can. 925). Those who for religious purposes or for the sake of education or even health are living in community life in houses erected with the ordinary's consent, but which have no church or public chapel, and all others living there in their service, may fulfil the obligation of visiting a church or a public oratory, when no special one has been mentioned, as a condition for gaining an indulgence, by visiting their own domestic chapel in which they can satisfy the precept of hearing Mass (can. 929). If confession is a condition for gaining an indulgence it can be made within the octave immediately preceding the day for which the indulgence is granted, and the Communion may be received on the vigil; or either condition may be fulfilled within the octave following the appointed day. In like manner the confession and Communion required for gaining the indulgences granted for the pious exercises of a triduum, novena, etc., may be made within the octave immediately following the exercises. The faithful who are accustomed to go to confession at least twice a month, unless lawfully prevented, or who receive Holy Communion in the state of grace with a right intention daily, even though they may refrain once or twice a week, may gain all indulgences without the actual confession annexed as a condition, except indulgences granted for the ordinary or an extraordinary jubilee or for some similar case. An indulgence cannot be gained for doing anything that is already enjoined by law or precept, unless the contrary is expressly stated in the concession; however, if in sacramental confession a work to which perchance an indulgence is attached is imposed as a penance, it is possible to gain the indulgence and perform the penance at the same time (can. 932). More than one indulgence may be annexed to one and the same thing or place on diverse grounds; but more than one indulgence cannot be gained for performing one and the same work to which the indulgences have been annexed on diverse grounds, unless the work enjoined is confession and Communion, or unless the contrary has been declared (can. 933). If prayers for the pope's intentions are a condition for gaining an indulgence, mental prayer alone is not sufficient, but any vocal prayer will satisfy the obligation, unless a specific prayer has been ordered. If a particular prayer is assigned, the indulgences may be gained no matter in what language it is said, provided the fidelity of the translation is declared by the sacred penitentiary or by one of the local ordinaries of the place where the language is spoken; but any addition, omission, or interpolation nullifies the indulgence. For gaining indulgences the prayers may be said alternately by those praying, or one may say the prayers and the others follow it mentally (can. 934). If without fault on one's part it is impossible to perform the works enjoined for gaining an indulgence, a confessor is empowered to commute them into others (935). Those who are dumb can gain indulgences annexed to public prayers, if they are present with the other faithful at the prayers and



raise up their thoughts and affections to God; in the case of private prayers it suffices for them to repeat them mentally or peruse them with their eyes (can. 936).

**Infamy** (C. E., VIII-1), *add*: Neither infamy of fact nor infamy of law affects one's kindred; however, if a parish priest's reputation was impaired by his living with relatives who had incurred infamy and he refused to oblige them to live elsewhere, this would be a sufficient reason for his removal (can. 2294). Infamy is incurred by the very act of those who (a) throw away the consecrated species or carry them off or retain them for an evil purpose (can. 2320); or (b) profane corpses or graves (can. 2328); or (c) lay violent hands on the pope, a cardinal, or papal legate (can. 2343); or (d) act as principals or as seconds in duels (can. 2351); or (e) attempt to marry even civilly in disregard of their marriage bond (can. 2356); or (f) have been lawfully condemned for certain aggravated sins of impurity (can. 2357). Apostates from Christianity and all heretics or schismatics, remaining recalcitrant after warning, but not their children (can. 2314), and those who admit having committed certain aggravated crimes of impurity, are to be declared infamous (can. 2359).

A person who has incurred infamy of law is not merely irregular, but is incapable of receiving ecclesiastical benefices, pensions, offices, or dignities, or of performing legal ecclesiastical acts, or of exercising ecclesiastical functions or of ministering in sacred services (can. 2294), of acting as a sponsor (can. 765; 795). One who is tainted with infamy of fact should not be allowed to receive orders (can. 987), or ecclesiastical dignities, offices, or benefices, and may not perform legal ecclesiastical acts or exercise the sacred ministry (can. 2294); nor, after sentence, can he vote at elections (can. 167), act as sponsor (can. 766; 796), exercise the right of patronage or use its privileges. Those who are openly infamous are to be refused Holy Communion. Those who have been declared or condemned as infamous are not competent witnesses (can. 1757), nor may they act as experts (can. 1795) or as arbiters (can. 1931). There can be no judicial reproof in case of an offence entailing infamy (can. 1948). One who fears that his testimony will entail infamy on him or his kindred in the direct line or in the first degree collateral is not bound to confess the truth to a judge lawfully interrogating him (can. 1755). If by observing a vindictory penalty or censure *latæ sententiæ* a guilty person would betray himself and incur infamy and cause scandal, in an urgent case any confessor can in the forum of confession suspend the obligation of observing the penalty, on condition that he imposes on the culprit the obligation of having recourse at least within a month by letter and by his confessor, if possible without grave inconvenience, his name being concealed, to the sacred penitentiary or to a bishop possessing the requisite faculties and of obeying his commands; if in any extraordinary case such recourse is impossible the confessor, except in case of the censure for solicitation, can grant the dispensation, imposing fitting penance and satisfaction under penalty of again incurring infamy if the penance or satisfaction is unduly delayed (2290).

**Inquisition**, CANONICAL (C. E., VII-38), *add*: Though the special inquisition preliminary to entertaining a charge of crime against a cleric may be held by the local ordinary, it is usually en-

trusted to one of the synodal judges, or in exceptional cases to another priest. The inquisitor must be delegated specially on each occasion and for a single case only, and can never act in the same trial as judge (can. 1940-41). When his report indicates that the denunciation is without solid foundation, the ordinary must record the fact in the secret archives; if there are indications of a crime, but insufficient for beginning a trial, the record is to be similarly preserved and the conduct of the cleric is to be watched; if the evidence is certain or at least probable and sufficient for formulating an accusation, the cleric is to be cited to appear (can. 1946).

**Institution**, CANONICAL (C. E., VIII-65), *add*: A candidate before receiving episcopal institution must make the prescribed profession of faith and swear fidelity to the Holy See (can. 332). The right of instituting parish priests belongs to the bishop unless the parish has been reserved to the Holy See, all customs to the contrary being reprobated (can. 456). Canonical institution to a benefice, which cannot be granted by a vicar general without a special mandate, should always be given within two months after presentation, if there is no just impediment (can. 1466-67).

**Interdict** (C. E., VIII-73), *add*: A general interdict, whether local or personal, affecting a diocese or state is reserved to the Holy See; but a general interdict affecting a parish or its parishioners or a particular local or personal interdict may be imposed by the bishop also. Externs and exempted individuals are obliged to observe a local interdict (can. 2269).

The sacraments and sacramentals can always be administered to the dying in spite of a local interdict; moreover, except it is expressly forbidden, if the interdict is merely local: (a) priests not personally interdicted may perform all Divine services in any church or public oratory privately, in a low voice, without bells, and with closed doors; (b) in the cathedral church, parish churches or only church in a town, exclusively, it is permissible to say a daily Mass, reserve the Blessed Sacrament, administer baptism, Holy Communion, penance, assist at marriages, though the nuptial blessing may not be given, hold funeral services without any solemnity, bless baptismal water and the sacred oils, and preach. In these ceremonies there must be no music, singing, or pomp; the Vaticum, however, is to be carried privately to the sick. Though local interdicts are suspended on certain great feasts, the prohibition against ordination or the solemn blessing of marriages remains in force (can. 2270-71). Interdiction of a church involves neighbouring chapels but not the cemetery; interdiction of a cemetery involves the oratories in it, but not the neighbouring church (can. 2273). Universities, colleges, chapters and all other moral persons appealing from the reigning pope to a general council incur an interdict reserved especially to the Holy See (can. 2332). Those who have caused a local interdict or the interdiction of a community or college are thereby interdicted personally, as are those who violate corpses or graves for an evil purpose (can. 2328).

**Irregularity** (C. E., VIII-170), *add*: No perpetual irregularity is contracted except in the cases mentioned in the Code. The persons who are irregular by reason of a defect are: (a) Illegitimates, unless they have been legitimized or solemnly professed; (b) those whose bodily defects

render them too feeble to minister at the altar with safety or who are too deformed to do so with due decorum; however, to exercise orders already received more serious defects may be tolerated than where there is question of receiving orders; (c) epileptics, the insane, and those who are or have been possessed; if these defects occur after ordination, the ordinary may allow his subjects to minister again if it is certain that they have been cured; (d) those who have contracted two successive marriages; (e) those who have incurred infamy of law; (f) a judge who has imposed a death sentence—jurors, witnesses, and others are no longer mentioned; (g) executioners and their voluntary and immediate assistants (can. 984).

Those irregular by reason of a crime are: (a) Apostates from the Faith, heretics, and schismatics; (b) those who have allowed themselves to be baptized by non-Catholics except in cases of extreme necessity—nothing is now said about the unconditional reiteration of baptism; (c) those who have presumed to marry, even civilly, while they were themselves bound by the marriage bond or were in sacred orders, or had religious vows even simple and temporary, as well as those who have attempted to marry a woman bound by similar vows or by the matrimonial bond; (d) those guilty of voluntary homicide or who have efficaciously procured abortion of a human foetus—formerly the expression *animated foetus* was used—and all their co-operators; (e) those who have mutilated themselves or others, or who have attempted suicide—

the latter clause is new; (f) clerics practising medicine or surgery when forbidden, if death results from their action—mutilation is no longer mentioned in this case; (g) whoever performs an act reserved to clerics in sacred orders if he has not received that order or who has been prohibited from exercising it, as a personal, medicinal, vindictory or local canonical punishment (can. 985). These offences do not beget irregularity unless they are external mortal sins committed publicly or secretly after baptism, except in the case of baptism by non-Catholics; mere ignorance of an irregularity based on defect or crime or of an impediment never excuses a person from incurring them.

The following are prevented by impediment from receiving orders: (a) Sons of non-Catholics, while their parents remain in error; (b) men while married; (c) those who at the time are holding positions forbidden to clerics and have to render an account of their administrations; (d) unfreed slaves—these four classes formerly incurred an irregularity; (e) those who have not yet completed their military service, when it is obligatory by civil law; (f) neophytes, until the ordinary believes them sufficiently tested; (g) those infamous by fact, as long as the ordinary judges the infamy to continue—they were formerly irregular by reason of crime (can. 987).

Irregularities are multiplied not by repetition of the same cause, except in case of homicide, but by different kinds of crime (can. 989). See DISPENSATION.

**Judge, ECCLESIASTICAL** (C. E., VIII-545), *add*: If the relative competency of a judge is questioned, he himself decides the question, without appeal (can. 1610). If the question arises among two or more judges themselves, the decision rests with the court immediately higher; if the judges are under different higher tribunals, the dispute is to go before the higher tribunal of the judge before whom the case was first brought; if there be no higher tribunal it is decided by the papal legate if he is present, otherwise, by the Apostolic Signature (can. 1612). Kinship in the direct line or in the first or second [formerly the fourth] degree collateral excludes a judge and likewise the promoter of the faith or the defender of the bond from acting (can. 1613). If the ordinary is judge and is objected to as suspected he is to refrain from acting or refer the question of his fitness to the next higher tribunal; if the exception is taken

against the promoter of justice, the defender of the bond or other administrators of the court, the president of the college of judges, or the judge himself, if he be the only one, is to decide (can. 1614). If the plaintiff does not adduce the proofs which he might give or if the defendant does not make competent objections the judge should not interfere, but if the public good or the welfare of souls is in question he not only may do so, but must. Except in the case of a bishop who exercises his judicial power personally, all judges must swear to act faithfully; this oath involves the invocation of God, priests, at the same time must touch their breasts and the other faithful the Gospels. Judges and assistants must observe inviolable secrecy regarding criminal suits, and even other trials if, otherwise, either of the litigants might suffer (can. 1620-23).



# L

**Law** (C. E., IX-64), *add*: The laws of the Code do not bind the Oriental Church except when dealing with matters which from the very nature of the case affect it also (can. 1); such, for instance, would be dogmatic laws, disciplinary laws merely declarative of the Divine law or those expressly including the Oriental Church. Acquired rights, privileges or indults granted by the Holy See to moral or physical persons and all liturgical laws are unaffected unless the contrary is expressly stated (can. 2;4; cf. also CONCORDAT; CUSTOM). All laws, whether universal or particular, opposed to the prescriptions of the Code are abrogated, unless where the contrary is expressly stated regarding a particular law. Canons restating the old law are to be explained by the interpretations already given by approved authors. In cases of doubt whether any prescription of the canons differs from the old law, no departure from the old law should be made. All penalties, whether spiritual or temporal, medicinal or vindicatory, *latæ* or *ferendæ sententiæ*, if not mentioned in the Code are abolished. Disciplinary laws not explicitly or implicitly contained in the Code lose all their force, unless they are found in the approved liturgical books or are merely confirmatory of the natural or positive Divine law (can. 6). It seems clear that this canon treats of the relation of the Code to the preceding general discipline of the Church, and consequently the changes contained in it affect only general laws, except where the contrary is stated. As a result of this the punishments imposed by national, provincial, or diocesan synods and the penalties inflicted by particular legislation of the Holy See would remain in vigour; so, too, would the dogmatic decrees of the Holy Office, the Biblical Commission and other such bodies.

Laws of the Holy See are promulgated by publication in the "Acta Apostolicæ Sedis," unless another method is ordered in a special case; but they become effective only three months after the date of the issue of the "Acta" in which they were printed, unless from the nature of the case the obligation arises at once or a shorter or longer interval is specially and explicitly mentioned in the law itself (can. 9). Episcopal laws, however, bind from the time of promulgation, if the contrary is not stated, the manner of their promulgation being left to the bishop (can. 335). Merely ecclesiastical laws do not bind the unbaptized, or the baptized who do not enjoy a sufficient use of reason, or those who, though they have the use of reason have not completed their seventh year, unless the law expressly states otherwise (can. 12).

*Peregrini* are not bound by the particular laws of their territory when they are absent from it, unless the laws are personal or unless the violation injures some one in their own territory; or by the laws of the place where they are, except laws enacted for the public welfare or those determining the validity or liceity of legal acts performed there; on the other hand, they are bound by general laws, even if these are not effective in their own territory, unless they are not effective in the locality in which they are. *Vagi*, however, are bound by the general laws and the particular laws of whatever place they are in (can. 14).

Where there is a doubt of law, laws even invalidating and disqualifying do not take effect; if the doubt is one of fact the ordinary can dispense, if the case is one in which the pope is wont to dispense (can. 15). No ignorance of invalidating or disqualifying laws excuses, unless the contrary is expressly stated (can. 16). An authentic interpretation of a law, if restrictive or extensive or explanatory of a doubt, is not retroactive and requires promulgation; an interpretation given in a judgment or in a rescript concerning a particular thing has not the force of law and binds only the persons or affects only the thing in question (can. 17). Laws containing an exception to the general law are to be interpreted strictly (can. 19). Laws passed to provide against a general danger, bind even if in a particular instance the danger is absent (can. 21). A law enacted by a competent authority abrogates an antecedent law if it expressly says so, or is directly contrary to it, or deals anew with the entire subject matter of the former law; but, while allowing for the provision in canon 6 mentioned above, a general law does not derogate from the statutes of special territories or of individuals, unless the contrary is expressly stated (can. 22). In case of doubt an earlier law is not to be presumed revoked, but the later law is as far as possible to be read in agreement with it (can. 23). A precept given to any individual binds him everywhere but cannot be urged judicially and ceases with the jurisdiction of the person who imposed it, unless it was imposed by an authentic document or in the presence of two witnesses (can. 24).

**Legate** (C. E., IX-118), *add*: A papal vacancy in no way affects the mission of papal legates or their faculties, unless the contrary is stated in their letters of appointment (can. 268).

## M

**Manifestation of Conscience** (C. E., IX-597), *add.*: It is strictly forbidden for any religious superior to induce in any way his subjects to manifest their consciences to him; but subjects are not forbidden to open their souls to their superiors, if they so desire; it is even laudable for them to show this filial trust in their superiors, and if the latter are priests to discuss their doubts and troubles of conscience with them (can. 53).

**Marriage** (C. E., IX-699), *add.*: Before a marriage takes place it is necessary to ascertain if there is any obstacle to its valid and licit celebration. When there is danger of death the oaths of the contracting parties affirming their baptism and freedom to contract would in case of necessity suffice. Ordinarily the procedure is to publish the banns of marriage (q. v.); in addition the parish priest entitled to assist at the ceremony is to examine the parties, in accordance with regulations to be drawn up by the local ordinary, and ascertain from them separately if there is any impediment and if they, especially the woman, are contracting freely. If they have not been baptized in his territory the parish priest must obtain baptismal certificates from both parties, or from the Catholic party if a dispensation has been granted from the impediment of disparity of worship. Moreover, those who have not been confirmed are to receive that sacrament before marriage, if that can be arranged without grave inconvenience (can. 1019-21). The parish priest must exhort minors not to marry without the knowledge or reasonable consent of their parents; should the minors disregard this advice he must not assist at the marriage without first consulting the local ordinary (can. 1034); finally, he should instruct the parties, according to circumstances, on the sanctity of the sacraments, the duties they are about to assume, and earnestly exhort them to go to confession and receive Holy Communion before the ceremony (can. 1033).

**Matrimonial Consent.**—A simple error concerning the unity, indissolubility, or sacramental dignity of marriage, even if it gave rise to the contract, does not vitiate matrimonial consent; nor does knowledge or belief that the marriage is void necessarily exclude it (can. 1084-85). A valid marriage cannot be contracted unless the parties are present personally or by proxy; the parties are to express their consent verbally, and may not employ equivalent signs, if they are able to speak (can. 1088; compare this with the reply of the Congregation of the Rota cited in C. E., IX-702a). If the marriage is by proxy: (a) the diocesan regulations must be observed; (b) for validity, the proxy must have a special commission to contract with a specified person; the commission must be signed by the principal and either the parish priest or the ordinary of the place where the commission is given, or by a priest delegated by either, or by at least two witnesses; (c) if the principal does not know how to write, the fact is to be noted in the commission and another witness added who must also sign the document; if these provisions are not observed the commission is invalid; (d) if prior to the

contracting of the marriage, the principal should withdraw the commission or become insane, even without the knowledge of the proxy or of the other principal, the marriage would be invalid; (e) the proxy must discharge his commission personally, otherwise the marriage would be void. Marriage can be contracted also with the aid of an interpreter, but the parish priest must not assist at a marriage by proxy or by the help of an interpreter, without just cause, and unless the authenticity of the commission or the trustworthiness of the interpreter is undoubted, and if time permits he is to get permission from the ordinary (can. 1089-91).

In all cases of marriage a record should be made as soon as possible (*quamprius*, the word *statim*—immediately—was used in the earlier law) by the parish priest or his substitute, even when another priest was delegated to assist. The marriage is to be recorded also in the baptismal registers; consequently if either or both of the principals were baptized elsewhere the pastor of the place of the marriage must personally or through the episcopal curia notify the pastor of the place of baptism. If the marriage took place under circumstances in which no priest was necessary for validity (see CLANDESTINITY), the obligation of procuring its record in both books devolves primarily on the priest, if any, who assisted, and secondarily on the witnesses and the contracting parties (can. 1103). Marriages of conscience, that is secret and without the publishing of the banns, can be authorized by the local ordinary, but not by the vicar general without a special mandate, for a very urgent and grave reason only. The assistant priest, the witnesses, the ordinary and his successors, and either spouse unless with the consent of the other are bound to secrecy. The marriage is to be recorded in a special book kept in the secret curial archives. The promise of secrecy does not bind the ordinary if its observance would constitute a danger of scandal or reflect gravely on the sanctity of marriage or if the parents neglect to have the offspring of such a marriage baptized or have them baptized under fictitious names without notifying the ordinary of the birth and baptism with the real names of the parents within thirty days, or if they neglect to give the children a Christian education (can. 1104-07).

Marriage may be contracted at any time of the year, but the solemn nuptial blessing is forbidden from the first Sunday of Advent till Christmas Day inclusive and from Ash Wednesday to Easter Sunday inclusive; the local ordinary, however, may for just cause permit the blessing during those periods, while observing the liturgical laws regarding the Mass to be said; but the parties are to be admonished to abstain from too great a display (can. 1108). The marriages of Catholics are to be celebrated in the parish church and not in another church or public or semi-public oratory without the permission of the local ordinary or the parish priest. Local ordinaries can allow marriage in private buildings only in extraordinary cases when there is a just reasonable cause; and in churches or oratories of seminaries or of nuns only in case of urgent



necessity, when all due precautions must be taken. Mixed marriages are to be celebrated without sacred rites outside of the church; the ordinary may, however, dispense from this to avoid greater evils, but he may not allow Mass to be celebrated (1102; 1109).

*Validation of Marriage* (C. E., XV-256), *add*: If the impediment which nullified a marriage and has been dispensed from, was occult and unknown to one party, it suffices for the party who knows of it to renew his consent privately and secretly. If the marriage was void from lack of consent, internal or external, the party who failed must consent internally and externally respectively, and in the latter case before the priest and witnesses if the lack of consent was public, or in a private secret manner if it was occult (can. 1135-36); in both these canons, no mention is made of notifying the other party about the defect, but in all cases the consent of that party must still continue. If the invalidating cause was a lack of form, the prescribed formalities must be fulfilled (can. 1137).

*Sanatio in radice*.—Where a marriage was void owing to an impediment rising from the Divine or natural law, the Church does not grant a *sanatio*, even from the time of the cessation of the impediment. As regards the canonical effect, the *sanatio* is retroactive to the beginning of the unbroken matrimonial consent or to the last time of giving it, if it did not exist continuously from the beginning (can. 1138-40).

*Mass, CHAPTER AND CONVENTUAL* (C. E., IX-790), *add*: A conventual Mass should be sung, but the chant may be omitted when the bishop or his substitute says Mass pontifically in the church (can. 413). It must be applied for the benefactors in general; if a canon is unable through illness to offer Mass he is not bound to give an alms to the priest who fulfills the obligation for him, unless the capitular statutes or a special custom provides otherwise (can. 417).

*Mass, SACRIFICE OF THE* (C. E., X-20), *add*: All priests are bound to say Mass several times each year; bishops and religious superiors should see that they all do so, at least, on Sundays and other feasts of precept (can. 805). It may be applied for all living persons and for the dead who are in the fire of Purgatory, and though excommunicated persons may not share in the public prayers of the Church, yet if there is no danger of scandal a priest may apply Mass privately for them, but only for their conversion if they are *vitandi* (can. 809; 2262). If a feast is transferred so that not only the office and Mass but the obligation of hearing Mass and of abstaining from servile work is transferred to another day, bishops, vicar capitulars and parish priests are obliged to apply Mass for their flocks (C. E., X-23b) on the latter day but not on the original feast. If a bishop or parish priest has charge of more than one territory he need offer only one Mass; hitherto his obligation was multiple. The parish priest should say the Mass for the people in the parish church, unless it is necessary or advisable to say it somewhere else; however, if he is legitimately absent he may say it elsewhere; and for just cause the local ordinary may allow him to change the legal day of celebration (can. 339; 446). These canons do not modify the old obligation of applying Mass for the people on suppressed feasts. Vicars Apostolic, prefects Apostolic, and quasi-parish priests are bound to apply Mass for their subjects at least on the feasts of Christmas, the Epiphany, Easter, Ascen-

sion Thursday, Pentecost, Corpus Christi, the Immaculate Conception, the Annunciation, St. Joseph, Sts. Peter and Paul, and All Saints; in other respects they follow the ordinary regulations in this matter (can. 306). If a priest is obliged to say a conventual Mass and the Mass for the people on the same day, he must celebrate and apply the former personally, and on the following day offer the latter personally or by another (can. 419).

A priest should always use the altar bread prescribed in his Rite wherever he may be saying Mass (can. 816). It is an impious thing, even in case of extreme necessity, to consecrate the bread without the wine, or vice versa, or to consecrate both outside the celebration of Mass (can. 817). All customs to the contrary being reprobated, priests in saying Mass must observe the rubrics of their liturgical books and beware of adding any ceremonies or prayers of their own accord; and must use the liturgical language prescribed for their Rite (can. 818-19).

*Time*.—Mass may not be begun more than an hour before dawn nor later than one o'clock in the afternoon. On Christmas Night only a conventual or parochial Mass can be begun at midnight, unless by Apostolic indult. In all religious and pious houses, however, having an oratory with permission to reserve the Blessed Sacrament habitually, on Christmas Night, one priest may say the three ritual Masses or a single Mass, at which all who assist may satisfy the precept of hearing Mass, and, if they desire, may receive Holy Communion. In virtue of the privilege of a portable altar, which is granted by law or by Apostolic indult, Mass may be said on the altar in any respectable place, except at sea. A local ordinary or a higher superior, where there is question of an exempt religious house, may, but only for a just and reasonable cause, in an extraordinary case and by way of exception, allow Mass to be said outside a church or oratory, on a sacred stone in a respectable place but never in a bedroom. It is not permissible to say Mass in a Protestant or schismatical church, even if it was formerly properly consecrated or blessed. When a priest cannot obtain an altar of his own Rite, he can celebrate on an altar consecrated in another Rite, but never on an antimensium of the Greeks; moreover, no one may say Mass on a papal altar without an Apostolic indult (can. 821-23).

*Mass stipends*.—Where a priest has satisfied an obligation of justice in applying a Mass, he cannot accept an honorarium for a second Mass, if he should say one, except on Christmas Day, though he may be recompensed lawfully for some other reason (can. 824). It is never allowable to say Mass for the intention of a person who has not requested it but who may later ask and offer a stipend, and when the stipend is offered keep it on the plea that Mass had been already offered for the donor's intention; nor may a celebrant accept a stipend for a Mass due and offered on another title, e.g., the Sunday Mass for the parishioners, or receive two stipends for applying the same Mass, or one stipend for the celebration of Mass and another for the application of the same Mass, unless it is certain that the donor offered the stipend solely for the celebration without the application of the Mass (can. 825). All kinds of bargaining and trafficking in Mass stipends is again entirely forbidden (can. 827). For each stipend, no matter how small, accepted by a priest, he must say and apply a Mass (can. 828). Those who send manual stipends for Masses to another, must send the full amount received, unless the donor ex-



pressly consents to a reduction or it is clear that the excess over the diocesan tax was given as a personal favour (can. 840-41). Any one offending against the prescriptions of canons 827, 828, 840-41 is to be punished suitably by the ordinary, even, if necessary by suspension or privation of benefice or ecclesiastical office, or, in case of laics, by excommunication (can. 2324; cf. C. E., X-21b).

A priest who has accepted a stipend for a Mass is not released from his obligation if the stipend is lost, even without any fault on his part (can. 829). Where a sum of money is given for Masses, without the number being fixed, the number is to be determined by the usual amount of the honoraria in the place where the donor lived, unless it be presumed that his intention was otherwise (can. 830). Though all priests are forbidden to exact more than the regulated stipend they may accept more, or even less if the ordinary does not forbid it (can. 832). The donor may impose certain conditions, for instance, concerning what Mass is to be said, but the presumption is that he does not (can. 833). If he mentions no time and the intention is urgent, the Masses must be said as soon as possible before the event takes place, in other cases they must be said within a short time, depending on the number. If the donor expressly leaves the time to the priest, he may say them when he pleases, but no one may undertake to say more Masses than he can celebrate within a year (can. 834-45).

In churches where so many stipends are sent habitually that all the Masses cannot be said there, a notice should be posted in a conspicuous place informing the public that the Masses will be said elsewhere in case it is impossible to do so conveniently in the church in question (can. 836). When Mass stipends are to be distributed this should be done as soon as possible; the time within which the Masses must be said begins from the day on which the priest who is to say them receives the stipends, unless it is otherwise provided (can. 837). If a priest has stipends for Masses which he is not obliged to say personally he may give them to any priests he favours, provided he, either personally or through the recommendation of their ordinary, knows them to be quite trustworthy (can. 838); this does away with the regulation which required a priest, before transferring stipends outside of the diocese, to notify his own ordinary (cf. C. E., X-21b). The priest who has transferred the honoraria is bound in regard to the Masses only until he has secured proof that the priest to whom the stipends were sent has received them and accepted the obligations (can. 839); formerly he remained bound till he received an assurance that the Masses had been said. If a priest or laic, either as administrator of pious institutions or as one charged in any way

to have Masses said, has any left unsaid at the end of a year, he must turn them over to his ordinary (can. 841).

Local ordinaries must see that the obligations arising from the acceptance of Mass stipends have been fulfilled in secular churches, as must religious superiors in their own, and they must inspect at least once a year the special book in which rectors of churches or other pious places, whether secular or religious, are to record carefully the number of Masses, the intentions, the stipends and the fact of the celebration (can. 842-43). Local ordinaries and religious superiors, moreover, who entrust their subjects or others with the celebration of Masses, are to note without delay the number of Masses and the stipends involved and to see that the Masses are said as soon as possible; in fact all priests should note down the Mass intentions they have received and carried out (can. 844).

**Minor Orders** (C. E., X-332), *add*: Vicars Apostolic, prefects Apostolic, and abbots or prelates *nullius*, even if they have not received episcopal consecration, are authorized by law, but only during their term of office and within their own territory, to confer first tonsure and minor orders on their own secular subjects and on others exhibiting the requisite dimissorial letters (can. 957); a regular abbot has the same power in regard to those subject to him by profession, provided he is a priest and has legitimately received the abbatial blessing; his power, however, is similarly limited unless he has received episcopal consecration, all privileges to the contrary being revoked (can. 964).

**Modernism** (C. E., X-421), *add*: In reply to a query whether the regulations contained in the *motu proprio* "Sacrorum Antistitum" and the encyclical "Pascendi" of Pius X were revoked by can. 6 of the Code which abolished many disciplinary laws, the Holy Office replied on 22 March, 1918, that these anti-modernistic precautions were still in force and were to continue so until the Holy See decreed otherwise.

**Motu proprio** (C. E., X-602), *add*: If a rescript in reply to a petition contains the clause *motu proprio*, it is valid, even when the petition did not tell the whole truth, but it is invalid if the final cause was false and it alone was advanced (can. 45); however, even under such circumstances a dispensation from a minor matrimonial impediment is valid (can. 1054). A rescript granted *motu proprio* to a person who by canon law is disqualified from obtaining the favour in question, or if it is contrary to a legitimate local custom, private statute, or acquired right is ineffective, unless it expressly contains a derogating clause (can. 46).

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**Notary** (C. E., XI-123), *add*: The duties of a notary are to draw up the official papers in connexion with ecclesiastical suits, and to show them to those who have the right of inspection and to authenticate copies thereof with his signature. The diocesan chancellor is a notary in virtue of his office; the bishop may appoint additional notaries, either for general purposes or for a special transaction, and may also freely remove or suspend them; a vicar capitular, however, cannot suspend or remove a notary without the consent of the chapter. Notaries may be laics or clerics, but only a cleric should be employed in clerical criminal suits; clerics, however, may not act as notaries except in ecclesiastical courts. Notaries can exercise their powers only in the territory of the bishop who appointed them and in the affair for which they were designated (can. 372-74; 139). Exempt clerical religious superiors can appoint one of their subjects as notary but only for business affecting their order (can. 503). Notaries must swear to discharge their duties faithfully before assuming office (can. 1621), and are bound to observe strict secrecy in regard to the proceedings in criminal suits, and in contentious suits also, if otherwise the interests of a litigant might be injured (can. 1623). Before taking up an ecclesiastical suit the judge must appoint a notary, as the proceedings would be invalid unless all the papers and records have been drawn up by or authenticated by a notary; even the judgment must be signed by him (can. 1585; 1874).

**Novice** (C. E., XI-144), *add*: No house of novitiate of a pontifically approved religious institute may be established without permission of the Holy See; nor may there be more than one in any province, except by a special Apostolic indult granted for grave cause (can. 554). Novices are to be separated from the professed as far as possible, so that there may be no communication between them without special cause and with leave of the superior or master of novices (can. 565). The right of admitting novices belongs to the higher superiors with the approval of the council or chapter, according to the constitutions of each institute (can. 543). Regarding the necessity of a postulature see **POSTULANT**.

The following persons are debarred from admission to the novitiate under penalty of invalidity: Those who have been members of a non-Catholic sect; those who have not attained the requisite age, the minimum age being fixed at fifteen by can. 555; those who are compelled to enter by force, grave fear, or deceit, or those whom the superior is thus compelled to admit; married persons, while the marriage lasts; those who were or are professed members of a religious body; those who are in danger of punishment for a grave crime of which they have or may be accused; residential or titular bishops, even if only appointed by the pope; clerics in sacred orders who, in accordance with a statute of the Holy See, have promised by oath to serve in a diocese or mission, as long as the oath continues to bind.

The following persons would be admitted validly but illicitly: Clerics in sacred orders, without the knowledge of their local ordinary, or against his will when he believes that their departure would inevitably result in serious injury to souls; those who are unable to pay their debts; those who have to give an account of their office or are involved in other secular affairs and thus likely to be brought into lawsuits or disputes; children who ought to support their father, mother or grandparents owing to their straitened circumstances, or parents who have to provide for the sustenance or education of their children; those intending to become priests in religion, if at the moment they are irregular or otherwise canonically impeded; finally Orientals may not join religious institutes of Latin Rite without written permission of the Sacred Congregation for the Oriental Church (can. 542).

All who aspire to enter religion must first produce evidence of their baptism and confirmation; if they are males, they must produce testimonial letters from the ordinary of their birth-place and of any place in which they have spent more than a year, morally continuous, after the age of fourteen, all privileges to the contrary being revoked. Where there is question of admitting persons who have been in a seminary, a college, or the house of postulants or of novices of another religious institute they must procure testimonial letters from the rector of the seminary or college, who is to consult the local ordinary, or from a higher superior of the religious institute, respectively; clerics need only produce, in addition to their certificate of ordination, testimonial letters from the ordinaries in whose dioceses they have lived more than a year, morally continuous, after their ordination, unless they are subject to the requirements of the preceding clause. A professed religious joining another order in virtue of an Apostolic indult need secure only the testimony of a higher superior of his former order. Women must not be received without a careful inquiry into their character and habits, and the testimony of a higher superior of an institute in which they may have been novices or postulants (can. 544).

A mother superior of sisters or nuns, even exempt, must notify the local ordinary at least two months before admitting any one to the novitiate or to profession; the local ordinary, or a priest delegated by him if he is prevented, must carefully interview the postulant or aspirant to profession gratuitously and without violating the enclosure to see if she is acting freely and understands the nature of the step she is about to take; if her pious dispositions and freedom of choice are clear, she can be admitted to the novitiate or to profession as the case may be (can. 552).

The novitiate begins with the assumption of the habit unless the constitutions provide otherwise; it must be passed in the house of novices, and last a complete uninterrupted year. If a longer time is prescribed by the constitutions, this is not required for valid profession, unless the constitution expressly declare otherwise (can. 555). The novitiate is interrupted, so that it must be commenced

all over again: if one, having been dismissed by a superior, goes out of the house; or if one leaves the novitiate without the superior's consent and with the intention of not returning, or if one, even with the superior's permission and for any reason whatever, remains outside of the house for more than thirty days, whether this time is continuous or interrupted. Formerly this continued residence in the house of novices was not required for validity, it sufficed if the novice remained under the obedience of the superiors. If a novice is absent from the novitiate more than fifteen days but not over thirty, even discontinuous, whether with the superior's leave or because compelled by force, the novitiate is not interrupted, provided he has remained under the superior's obedience, and all that is required for validity is that the days of absence should be made up; if, under the same circumstances, the time of absence was not more than fifteen days, the superiors may order them to be supplied, but this is not necessary for validity,—thus modifying a decree of the Congregation of Religious, 3 May, 1914, which required every day to be made up. Superiors may not grant leave to a novice to remain away except for a just grave cause. If the superiors transfer a novice to another house of novices of the same order the novitiate is not interrupted (can. 556); but if the order comprises two classes of members, a novitiate for one class is not valid for the other (can. 558).

Novices are to pass their year of novitiate under the exclusive guidance of the master of novices, except in so far as the constitutions allow other superiors to intervene; they are to be trained in the rules and constitutions of their institute, in practices of prayer, and virtue, and should not be appointed to preach, hear confessions, or engage in outside work or studies. Lay brother novices are to receive careful instruction in Christian doctrine and be present at a special weekly conference; they are to assist in household duties, but not so as to interfere with their novitiate exercises (can. 565).

A novice is free to leave the novitiate, or may be sent away by his superiors or the chapter, according to the constitutions, for any just cause, neither the superior nor the chapter being bound to re-

veal the cause. When the novitiate has been completed, the novice should be admitted to profession if he is found fitted, otherwise he is to be sent away; if his fitness is a matter of doubt the higher superiors may prolong the time of probation, but not beyond six months. Before making his vows a retreat of eight continuous days is to be made by the novice (can. 571). No one while a novice may be ordained nor can he validly renounce a benefice or give up his property or subject them to any obligation (can. 567-68). Before making the temporary or perpetual simple vows of profession, novices must transfer the administration of their property to any one they choose and, unless the constitutions provide otherwise, freely dispose of its use and its revenue, as long as they are bound by the simple vows. Novices in a religious congregation, that is, one having simple vows (can. 488), before making their temporary profession should dispose by will of the property they then have or may acquire later (can. 569).

*Confessors.*—Confessors for female novices are appointed according to the same regulations as those for the professed. For male novices there should be one or more ordinary confessors; the master of novices or his associate may not hear their confessions unless a novice in a special case for a grave and urgent reason requests him of his own accord (can. 891); the ordinary confessors should live in the novitiate if the novice belongs to a clerical institute; if, however, the institute is lay the confessors should come frequently to the novitiate for confessions; some other confessors to whom the novices can go freely in special cases should be appointed, and the master of novices must not show himself displeased at their so doing; at least four times a year an extraordinary confessor must be provided and all the novices must go to him, at least to receive his blessing (can. 566). If a religious goes to another monastery of the same order he has not to repeat his novitiate or to be professed again (can. 633), but if after his profession he was secularized and later, by virtue of an Apostolic indult, was received back into his old order, he has to make his novitiate over again (can. 640).



**Œconomus** (C. E., XI-214), *add*: The appointment and removal of a diocesan œconomus during an episcopal vacancy are subject to the same regulations as those of a vicar capitular (can. 432-33; 443). Religious institutes should have local, provincial, and general œconomi; but only the local œconomus may, in case of necessity, be a superior; if the constitutions are silent the œconomi are to be appointed by a higher superior with the consent of his council (can. 516). There should be likewise in each seminary an œconomus, distinct from the rector, to take care of the household (can. 1358).

**Option, RIGHT OF** (C. E., XI-264), *add*: The right of option formerly enjoyed by certain chapters is abolished, any custom to the contrary being reprobated, except when the right is accorded by the terms of a foundation (can. 396); even in this case it is not enjoyed by a capitular emeritus (can. 422).

**Oratory** (C. E., XI-271), *add*: An oratory is a place set aside for Divine worship, but not chiefly with the express object of being utilized for the convenience of the general body of the faithful. It is called public, if, while principally intended for the convenience of a collegiate body or even of private persons, all the faithful have a legally approved right of visiting it, at least during Divine services; it is semi-public, if it is erected for a community or a certain body of the faithful, without the general public being entitled to attend there; it is private or domestic if erected in a private establishment for a private person or family (can. 1188; C. E., III-41d). In colleges, boarding-schools, lyceums, military barracks, fortresses, prisons, hospitals, etc., there should be only one oratory, unless the local ordinary believes minor oratories to be necessary (can. 1192). Family mortuary chapels in cemeteries are private oratories (can. 1190), and ordinaries may habitually allow the celebration of several Masses there, but in other domestic oratories, they should allow only one Mass, as an incidental occurrence, in an extraordinary case and for a just and reasonable cause (can. 1194). In domestic oratories, if an Apostolic indult has been obtained, one Mass may be read daily except on the more solemn feasts; but no other church services may be held there. If there should be just and reasonable causes different from those on account of which the indult was granted, the ordinary may allow the celebration of Mass there on the more solemn feasts as an incidental occurrence (can. 1195).

Domestic oratories cannot be blessed or consecrated like churches; moreover, if they or semi-public oratories have received only the common blessing for houses or places or no blessing at all (cf. C. E., III-42d) they must be reserved exclusively for Divine service and never be used for domestic purposes (can. 1196).

**Orders, Holy** (C. E., XI-279), *add*: A candidate should be ordained by his own bishop or by one

who has received lawful dimissorial letters from him (can. 955). The expression "own bishop," as far as the ordination of seculars is concerned, means solely the bishop of the diocese in which the candidate has a domicile together with origin, or a simple domicile without origin; but in the latter case the candidate must swear that he intended to remain permanently in the diocese, unless there is question of ordaining a cleric who has already been incardinated in the diocese by first tonsure, or a student who is intended for service in another diocese after legitimate excardination and incardination, or a professed religious (can. 956). This does away with the bishops of incardination, familiarity, and benefice. The place of origin is that in which a father has a domicile, or in defect of a domicile, a quasi-domicile, when his child is born, or of the mother's domicile or quasi-domicile if the child is illegitimate or posthumous, or of the place where a founding has been discovered, or of the place of birth in the case of the child of *vagi* (can. 90). No one without leave of the Holy See can lawfully promote to higher orders one who has been ordained by the pope (can. 952). A bishop may not ordain a subject who belongs to an Oriental Rite without an Apostolic indult (can. 955).

*Subject*.—Only a baptized male person can receive valid ordination; the various canonical requirements affect only the liceity of orders (can. 968). The candidate's bishop or higher religious superior may for any canonical cause, even occult, forbid his promotion to higher orders, but he may appeal to the Holy See or the superior general respectively (can. 970). It is advisable that aspirants to orders should live in a seminary from a very early age; all must do so at least during their entire theological studies, unless the ordinary conscientiously believes that there is grave cause for dispensing from the obligation in special cases; if thus dispensed the aspirant should be entrusted to the special care of a pious capable priest (can. 972). First tonsure and orders are to be conferred only on those who intend to become priests and who give good hope of filling that office worthily (can. 973). The candidate for orders must have been confirmed (can. 974); no one whether secular or religious may receive first tonsure before beginning his theology; the subdiaconate may not be conferred before the end of the third year's theology, nor the diaconate before commencing the fourth year; the priesthood can be received only after the middle of that year (can. 976). The intervals between the reception of the different orders must be observed; those between first tonsure and portership and between each of the minor orders is left to the discretion of the bishop; but one must be an acolyte one year before receiving the subdiaconate and subdeacons and deacons must have exercised their respective orders for three months before being promoted, unless the wants or interests of the Church, in the opinion of the bishop, demand shorter intervals; however, all customs to the contrary being reprobated, it is never lawful without special papal permission to confer minor orders with the subdiaconate or two sacred orders on the

same day; nor is it allowable to confer first tonsure with a minor order, or all minor orders at the same time (can. 978).

Seculars must have a canonical title for ordination, either a benefice, patrimony, or pension; and a bishop who, without an Apostolic indult, ordains his subject without a title, must provide for his support if necessary, even if the subject covenanted not to ask for alimention (can. 980). When these titles are not available they may be replaced by a title of diocesan service, and, in territories subject to Propaganda by a title of mission, but the candidate must swear to devote himself perpetually to the service of the diocese or mission, under the authority of the local ordinary for the time being. In these two cases the ordinary is bound to appoint the candidate to some benefice or office, or give him an allowance sufficient for his support (can. 981).

Secular candidates for ordination and religious who are bound by the same regulations before being ordained must produce: (a) testimony of their last ordination or, if there is question of first tonsure, of their baptism and confirmation; (b) testimony that they have completed the required course of study; (c) testimony of the rector of the seminary or of the priest to whom the aspirant was entrusted while outside the seminary, concerning his moral character; (d) testimonial letters from the ordinary of the place where the candidate has lived for a time during which he might have incurred a canonical impediment; (e) similar letters from a higher religious superior if the candidate is a religious. The time just referred to in (d) is usually three months in the case of soldiers, and six months for others after attaining puberty, but the ordaining bishop may insist on having letters when the time was shorter and even for the period before puberty was reached. If the local ordinary has not sufficient knowledge either personal or through others to testify that no canonical impediment was incurred while the candidate was in his territory, or if the candidate has lived in so many dioceses that it would be impossible or very difficult to obtain all the requisite letters, the ordinary must obtain a supplementary oath from the candidate. If after obtaining the letters but before ordination the candidate again remains the requisite time in a diocese he must procure fresh testimony from the local ordinary. A religious superior must testify in his letters not only that his subject is professed and a member of his house, but that he has finished the studies and has the other qualifications required by the canons. Candidates, both secular and religious, are to be carefully examined concerning the order they are about to receive, and those intended for major orders are to be examined in theology; the details of the examination are left to the bishop, but, even after the candidate has received the dismissorial letters certifying that his examination was satisfactory, the ordaining bishop has the right to hold another examination and re-

ject the candidate if he finds him unsuited (can. 993-97).

The names of the candidates, excepting religious with simple or solemn perpetual vows, must be announced publicly in the candidates' parochial church; but the ordinary may dispense from this for just cause and have the proclamation made in another church or instead of the proclamation have the names posted publicly on the church doors for a few days, one of which must be a day of precept. The proclamation should be made on a day of precept during Mass or on another day and at another time when a great number of the faithful are attending church. If within six months the candidate has not been ordained the proclamation must be renewed (can. 998). Those about to receive first tonsure or minor orders must make a retreat of three days, those receiving a major order, six days; if anyone is to receive several major orders within six months, the ordinary may reduce the retreat for the diaconate to three days. If the ordination does not take place within six months, the retreat must be repeated; if the delay is less, the matter is left to the ordinary's discretion. Religious must make the retreat in their own house or another at the superior's discretion; seculars are to make it in the seminary or in another pious or religious house designated by the bishop, who must be notified that it was made, by the superior of the house, or if the candidate is a religious by his higher superior (can. 1001).

*Ceremonies.*—If a candidate, who has already received any orders in an Oriental Rite, is, in virtue of an Apostolic indult about to receive higher orders in the Latin Rite he must first receive in the latter Rite the orders which he did not receive in the Oriental (can. 1004). All those who are promoted to major orders must receive Holy Communion at the ordination Mass (can. 1005). An episcopal consecration should take place during Mass on a Sunday or the feast of an Apostle. Major orders are to be conferred during Mass on Ember Saturdays, Easter Saturday, or the vigil of Passion Sunday, or for grave cause on any Sunday or feast of precept. First tonsure may be given on any day at any hour; minor orders on Sundays and double feasts in the morning. Any custom contrary to these prescriptions regarding the time of ordination is reprobated; the prescriptions must be observed also by a Latin bishop ordaining a cleric of Oriental Rite and vice versa (can. 1006). First tonsure and minor orders may be conferred in private oratories, and major orders for just cause in an episcopal, seminary, or religious oratory (can. 1009). A record of the ordination must be preserved in the local curial archives, and the local ordinary, or higher superior of the candidate who is a religious and has been ordained with dismissorial letters, must send notice of the ordination of all subdeacons to the rectors of their baptismal churches so that the fact can be recorded in the baptismal register (can. 1011).



## P

**Parish** (C. E., XI-499), *add*: The territory of each diocese should be divided into distinct territorial parts, called parishes, each with its own special church and determinate congregation, and over each parish should be placed as its proper pastor, its own special priest for the necessary cure of souls; this involves a great change in most of the English-speaking dioceses, where canonical parishes had not been erected. If distinct territories of vicariates or prefectures Apostolic have their specially assigned pastors they are called quasi-parishes. Without a special Apostolic indult it is unlawful to establish parishes on the lines of different language or nationality in the same city or territory, or family or personal parishes; where such exist, however, no change is to be made without consulting the Holy See (can. 216). It may be noted that it is the erection of parishes, not of subsidiary churches, that is forbidden. The church of nuns or sisters can never be a parish church (can. 609). The pastors of parishes are permanent, yet all may be removed under certain conditions laid down by the law; the same degree of stability is not granted to all the pastors, hence some are called irremovable and the others removable. The Code applies the same terms to the parishes. An irremovable parish cannot be made removable except with the leave of the Holy See; removable parishes, however, can be declared irremovable by the bishop—but not a vicar capitular—with the advice of the cathedral chapter; new parishes should be irremovable, unless the bishop after consulting the chapter decides on account of special circumstances to make them removable. Quasi-parishes on the other hand are always removable (can. 454). Each parish is subject to taxation for the support of the seminary (can. 1356), and should have its confraternities of the Blessed Sacrament and Christian Doctrine (can. 711). If in the course of time it is necessary to convert a parish church to lay purposes its title should be transferred to another church (can. 1187). Parishes may be validly divided, united, or suppressed but only for canonical reasons, the local ordinary, however, must consult the cathedral chapter (its consent is required for suppression, can. 2292), and those interested, especially the rectors of the churches. If a parish belonging to religious or subject to a right of patronage is divided, the new or filial parish is independent of the religious or the patron. Though the filial parish, if endowed out of the revenues of the mother parish, is bound to pay honour to the latter in a manner prescribed by the ordinary, it is, nevertheless, entitled to its own baptismal font (can. 1427-28).

**Pastor** (C. E., XI-537), *add*: As all dioceses are now to be divided into parishes the removable and irremovable rectors of England and the United States spoken of in the CATHOLIC ENCYCLOPEDIA are to become parish priests. A parish priest (*parochus*) is one who has been granted a parish with the cure of souls to be administered under the authority of the local ordinary. Those who rule quasi-parishes and parochial vicars enjoying full parochial powers are included under the title parish priest

and have all his rights and duties. Occasionally a moral person, such as a cathedral chapter or a religious house becomes a *parochus*, with leave of the Holy See, in which case the actual cure of souls is entrusted to a vicar (can. 451-52). A parochial pastor must be a priest; formerly a cleric could receive a benefice with cure of souls annexed, on condition of receiving the priesthood within a year; his office is more or less stable according as the parish is irremovable or removable. A religious who is a parish priest is always removable at the will of the local ordinary or of his superior according to the constitutions, each of whom must give notice to, but need not state his reasons to, the other; an appeal against the removal may be taken with devolutive effect to Rome (can. 454).

Parish priests are nominated and instituted by the local ordinary, except for parishes reserved to the Holy See, all customs to the contrary being reprobated, but lawful privileges of election or presentation being respected. If the episcopal see is vacant or impeded the vicar capitular or other ruler of the diocese appoints parochial vicars but not parish priests unless the see has been vacant a year (can. 455). Quasi-parish priests are appointed by the local ordinary, with the advice of his council, from his own secular clergy (can. 457). A vacant parish is to be filled within six months by the local ordinary, unless he decides that owing to special circumstances the time should be extended. He should appoint the priest best qualified for the position; to decide this point he should consult the diocesan records, take note of the examinations of the priests in the years immediately following their course of studies, and should together with his synodal examiners hold another examination, from which, however, with the consent of the synodal examiners he can exempt priests of known theological ability. Where the system of *concursum* is in vogue it is to be continued till the Holy See provides otherwise. A parish priest should have only one parish, except where parishes have been united *aeque principaliter*; no parish may have more than one parish priest having the cure of souls, all customs to the contrary being reprobated and all privileges to the contrary withdrawn. A parish priest obtains his cure of souls from the moment he takes canonical possession of his parish, before or at which time he must make the canonical profession of faith (can. 459-61).

The following duties are reserved to parish priests, unless the law in certain instances has provided otherwise: to baptize solemnly; to carry Holy Communion publicly to the sick in his parish; to bring the Viaticum publicly or privately to the sick and to administer extreme unction (except to bishops, to those resident in houses of clerical religious or of nuns with solemn vows, or of lay religious if exempted by the bishop); to announce ordinations or proclaim banns of marriage, and give the nuptial blessing; to hold funeral services; to bless houses according to the ritual on Easter Saturday or other days if customary; to bless the baptismal font on Easter Saturday, to lead public processions outside of the church, and



to give blessings with pomp and solemnity outside of the church, except where a chapter performs these functions in connexion with its church; first Holy Communion, Easter Communion, and simple baptism are not included. A parish priest is entitled to the statutory or sanctioned customary fees for voluntary acts of jurisdiction or on the occasion of administering certain sacraments; if he exacts more he is bound to restitution; if any one performs such duties for him the parish priest is entitled to the fees, even to any surplus over the ordinary amount unless it is certain that the donor intended the surplus for the actual minister; however, if a party is too poor to pay, the parish priest is obliged to give his services. He has care *ex officio* of all those in his parish who are not exempt (a seminary is exempt), but the bishop for just and grave cause may withdraw from his jurisdiction religious houses and pious places not exempt by law (can. 462-64). In virtue of this the bishop may give parochial rights to the chaplains of such places, which was hitherto a subject of controversy in the United States of America.

Usually the parish priest is to live near the church; he is entitled to two months' leave of absence each year as a maximum, whether continuous or interrupted, but the time of his annual retreat is not included in this; the ordinary may, however, for grave reasons prolong or curtail the period of vacation. When the parish priest is absent more than a week he must have the ordinary's written leave and must provide a substitute approved by him,—approval and leave of his superior would also be needed if the parish priest was a religious. If for grave cause the parish priest is called away suddenly and cannot return within a week he must notify the ordinary as soon as possible explaining the cause and suggesting a substitute and must hold himself ready to obey orders (can. 465).

**Removal of Pastors** (C. E., XI-500c), *add*: In selecting the examiners to discuss the removal of a parish priest, the ordinary is not bound as formerly to take them in order of their nomination. The invitation, which may be written or oral, unless the priest's mind is affected, sent to the priest to resign is invalid unless it mentions the cause and the arguments inducing the ordinary to make the request (can. 2148). The latter may allow the priest whatever extension of the time fixed for replying he judges suitable, provided no spiritual detriment results to the faithful (can. 2151). If the ordinary finds unsatisfactory the reasons given by the priest for declining to resign, he must tell him so. The priest has then ten days within which to request a stay in order to bring forward new reasons and the testimony of two or three witnesses which he had been unable to obtain on the previous occasion. The ordinary, taking advice with two parish priests as consultors, must examine these fresh reasons, if they have been presented within ten days from the time of the request for a stay. The decision rests exclusively with the ordinary, not as formerly with the ordinary and the consultors (can. 2153). The ordinary should endeavour to provide the priest as soon as possible with another parish, office, or benefice if he is fitted for such, or with a pension if circumstances allow. The priest should leave the parochial house as soon as he can, but if he is infirm or sick and cannot conveniently move, he is to be allowed to remain there during his illness (can. 2156). A removable parish priest may be removed for the same reasons as one who is irremovable; the procedure is similar, except that he is not allowed a second hearing (can. 2160-61).

At times it may seem advisable to an ordinary to transfer to another parish a parish priest who is perfectly satisfactory and exemplary. Special faculties would be necessary to transfer an irremovable parish priest against his will, but not if he is removable and the new parish is not notably inferior. The removable priest may, however, set forth his objections in writing for the ordinary; if the latter is unmoved by the objections he must, to proceed validly, call in two parochial consultors and discuss with them the priest's objections, the conditions of the two parishes, and the reasons why he deems the change useful or necessary. If, after hearing the consultors, the ordinary still favours the change he is to advise the priest to yield; should the latter still refuse, the ordinary may notify him in writing that after the lapse of a certain time the parish is to be vacated, and may declare it vacant when that period has elapsed (can. 2162-67).

Among the duties which a parish priest must be most careful to fulfil are saying Mass and administering the sacraments, visiting and comforting the sick and dying, preparing children and others for first confession, Holy Communion and confirmation, preaching on Sundays and feasts of precept, explaining the catechism to adults in Sunday sermons, and keeping the church clean and free from unbecoming proceedings such as sales for pious purposes. If he is gravely careless in these matters the bishop should call his attention to his fault; if he does not amend the bishop should admonish him and punish him, if after consulting two examiners and giving the priest an opportunity of defending himself he judges that the duties have been seriously neglected without a just cause; if the admonition and punishment produce no amendment the bishop can at once deprive a removable parish priest of his office; an irremovable parish priest is to be punished by depriving him in part or in whole of the fruits of his benefice, which are to be given to the poor. Should the irremovable priest continue recalcitrant the ordinary after establishing the fact as above is to deprive him of his parish likewise (can. 2182-85).

**Patron and Patronage** (C. E., XI-560), *add*: No right of patronage can be validly created henceforth; local ordinaries, however, may allow those who establish benefices or erect churches wholly or in part a right to prayers, temporarily or perpetually according to the liberality of the donor, or may allow the foundation of a benefice with the condition annexed that it is to be granted the first time to the clerical founder or another cleric named by the founder. Local ordinaries are to endeavour to have the interested parties accept prayers, even perpetual, for themselves and their family, in return for yielding up their rights of patronage or at least of presentation. Where popular elections and presentations are customary they may be tolerated only if the people select one of three clerics proposed by the local ordinary. A personal right of patronage cannot be transmitted validly to infidels, public apostates, heretics, schismatics, members of secret societies condemned by the Church or any excommunicated person after a declaratory or condemnatory sentence; in any other case the ordinary's written consent is needed, with due respect to the laws of the foundation. If a thing to which a real right of patronage is annexed passes into the possession of the ineligible persons just mentioned the right is suspended (can. 1450-53). The only honorary rights of a patron mentioned in the Code are, if authorized by lawful local custom: a genealogical record in the church, prece-

dence over other laics in processions and similar functions, and a more prominent seat in church, but not within the sanctuary or with a canopy. Minors exercise their right through their parents or guardians (cf. C. E., XII-399b), but it is suspended if the parents or guardians are non-Catholics (can. 1455-56).

Where there is no just impediment the presentation must be made within four months (or less if custom or the laws of the foundation require it) after the person having the right of instituting notifies the patron of the vacancy and of the eligible priests if a concursus is necessary; if the presentation is not made within the proper time, the church or benefice may be freely collated on that occasion; if, however, a dispute arises which cannot be settled within the time fixed the ordinary should name a temporary *oconomus* for the church or benefice. When there are several individual patrons they can, if they obtain the ordinary's written consent, covenant for themselves and their successors to have the presentations made by the individual patrons in turn. If this is done neither the ordinary nor his successors can validly change the agreement without the patron's consent. If the right of patronage is exercised by a college the candidate presented is he who has obtained the absolute majority of votes; if no one is selected in the first two ballots, the person getting the greatest number of votes; if more than one receives the highest figure all having that number are presented. Where there are individual patrons the candidate getting the relative majority of votes is chosen, and again more than one may thus be presented. A patron has a vote for every title to his right, and he may present more than one candidate. No one can present himself or secure his own presentation by means of his vote (can. 1457-61). It is the right of the ordinary to decide if he is suitable; he should investigate carefully before deciding and need not give his reasons (can. 1464). If the candidate is unsuitable, the patron can propose a second, and, if he also is unfitted, the benefice may be freely collated for that occasion unless the patron or candidate appeals to the Holy See within ten days after being notified of the rejection; during the time of appeal an *oconomus* if necessary should be appointed by the ordinary. A presentation tainted with simony is invalid and would nullify even institution if granted. When one has been lawfully presented, found suited, and his presentation has been accepted, he has a right to canonical institution, the right of granting which is enjoyed by the local ordinary, but not by the vicar general without a special mandate. If more than one is presented the ordinary selects the most fitted. Canonical institution must be given within two months after presentation, unless there is a just impediment (can. 1466-67).

The duties or burdens of patrons are: to notify the bishop if the property of the church or benefice is falling into decay, without, however, interfering in the administration of the property; to rebuild the church if destroyed or make the repairs the ordinary believes necessary, if their right is based on the title of building, unless the duty is imposed by canon law on others; to supply adequate revenues if their title is one of endowment and if the revenues have decreased so much that Divine service cannot be held decently in the church nor a benefice conferred; in this and the preceding case the right of patronage is temporarily in abeyance; if within the time fixed by the ordinary they do not fulfil this duty the right ceases by law, without any declaration being necessary (can. 1469).

In addition to the case just mentioned the right of patronage is extinguished: (a) by renunciation, which may be complete or partial, but can never be to the detriment of the co-patrons, if any; (b) if the Holy See revokes the right or suppresses the church or benefice perpetually; (c) by prescription; (d) if the thing to which the right was annexed perishes, or the family, race, or line to which by the terms of the foundation the right was limited is extinguished; in the latter case the right does not become inheritable, nor can the ordinary validly allow it to be donated to another; (e) if, with the patron's consent, the church or benefice is united to one of free collation, or if the church is made elective or entrusted to regulars; (f) if the patron attempts to transfer his right simoniacally to another; if he becomes an apostate, heretic, or schismatic; if he unjustly usurps or retains the property or rights of the church or benefice; if he personally or by proxy kills or mutilates the rector or any cleric in the service or a beneficiary of the church; the patron alone loses his right for any of these crimes, except the last, when it is lost also to his heirs, but it is not lost through the crimes until there has been a declaratory sentence. A patron after a condemnatory or declaratory sentence of censure or infamy of law cannot exercise his right or enjoy his privileges while the censure or infamy lasts. If the Holy See whether by a concordat or not grants anyone an indult to present to a vacant church or benefice, this does not give rise to a right of patronage and the privilege of presenting is to be interpreted strictly (can. 1470-71).

**Patron Saints** (C. E., XI-562), *add*: It is laudable to select saints for nations, dioceses, provinces, confraternities, religious institutes and other places and moral persons; when the selection has been approved by the Holy See, the saints are officially recognized as patrons; a special Apostolic indult, however, is necessary for having as a patron one who is merely beatified (can. 1278). The feast days of patrons are not of obligation, but the local ordinaries can transfer the external celebrations to the Sunday following (can. 1247).

**Penance, SACRAMENT OF** (C. E., XI-618), *add*: *Minister*.—To absolve from sin validly a priest requires the power of jurisdiction, ordinary or delegated, over the penitent (can. 872). Ordinary jurisdiction for confessions throughout the entire world is enjoyed by the pope and the cardinals; local ordinaries, parish priests and those in place of parish priests possess it in their territories. Canons penitentiary, even collegiate, possess it for the entire diocese, but cannot delegate it; exempt religious superiors enjoy it over their subjects in accordance with their constitutions. This jurisdiction ceases by loss of office and after a condemnatory or declaratory sentence of excommunication, suspension from office, or interdict (can. 873). When there is a common mistake or a positive and probable doubt, whether of law or of fact, the Church supplies jurisdiction both for the internal and the external forum (can. 209),—a declaration that definitively settles a problem on which moralists were long divided.

Delegated jurisdiction to hear confessions of seculars or religious is granted by the ordinary of the place where the confessions are to be heard to both secular and religious priests even exempt; religious priests, however, are not to use these faculties without leave of their superior, at least presumed. A religious, even exempt, can, for his



peace of mind, be validly and licitly absolved by any confessor approved by the local ordinary, even though such priest were not appointed by the superior to hear the confessions of the religious. All privileges contrary to this are now revoked; and the confessor, moreover, can absolve the religious from sins and censures reserved in the order. Local ordinaries are instructed not to grant jurisdiction to hear confessions habitually to religious unless when they are presented by their own superior, in which case jurisdiction should not be refused unless for grave cause, if the candidate be otherwise satisfactory (can. 874; 519).

In the case of an exempt clerical community the superior can confer jurisdiction on all priests, whether secular or belonging to his order or another, to hear the confessions of his professed brethren, novices, and others residing in the house day and night; if the community be lay but exempt, the superior nominates the confessor, who obtains his jurisdiction from the ordinary of the place where the religious house is situated (can. 875).

Local ordinaries and religious superiors are to grant jurisdiction or permission to hear confessions only to those who have been examined and found competent, except in the case of priests of well-known theological ability. If, later, there is prudent reason for doubting a confessor's qualifications he may be re-examined, even if he be a parish priest or a canon penitentiary (can. 877). Delegated jurisdiction or leave to hear confessions may be limited to a definite place, but local ordinaries and religious superiors are advised not to do so except for just cause (can. 878). Jurisdiction for hearing confessions must be given expressly, in writing or verbally, without any payment, and when granted should not be revoked or withdrawn without grave cause; an ordinary for serious reasons may forbid a parish priest or penitentiary to hear confessions, but they may lodge an appeal without suspensive effect with the Holy See; a bishop, however, may not withdraw jurisdiction from all the confessors of a fully established religious house at the same time, without consulting the Holy See (can. 880). All priests approved as confessors in any place, whether their jurisdiction be ordinary or delegated, can licitly absolve all those who have no domicile or quasi-domicile, or who are absent from their place of domicile or quasi-domicile and also Catholics of any Oriental Rite.

Priests having ordinary jurisdiction can absolve their subjects anywhere (can. 881). All priests, secular or religious, even if not approved, can validly and licitly absolve any penitent in danger of death from any sin or censure, however reserved or notorious, even if an approved confessor be present; though absolution of an accomplice *in turpi*, in danger of death, except when necessity demands it, is illicit on the part of the confessor. Those, however, who being in danger of death have been thus absolved from a censure *ab homine* or one reserved very specially to the pope by a priest lacking the necessary faculties are obliged, on recovering their health, to have recourse, under penalty of re-incurring the censure, to the superior who imposed the censure *ab homine*, or to the Sacred penitentiary, a bishop, or other person enjoying the necessary faculty if there is question of a censure *a jure*, and must obey his commands (can. 882; 884; 2252).

Priests travelling by sea who have received faculties for hearing confessions from their own ordinary or from the ordinary of the port of embarca-

tion or even from the ordinary of any port at which the ship has called during the voyage, may, as long as the voyage lasts hear aboard ship the confessions of those travelling with them, even if the ship passes through or stops for a short time in places under the jurisdiction of other ordinaries. Furthermore when the ship calls at a port they can hear the confessions of any person who comes on board for any purpose whatever, and if they themselves land for a short time they can hear the confessions of anyone asking to be heard and validly and licitly absolve him in cases reserved to the local ordinary (can. 883).

Though not necessary for valid absolution, the prayers annexed by the Church to the form of the sacrament must not be omitted without just cause (can. 885; C. E., I-64c). Superiors of seminaries or colleges, like masters of novices, must not hear the sacramental confessions of their alumni living in the same house with them, unless an alumnus in a particular instance, for grave and urgent cause asks them of his own accord to do so (can. 891). Parish priests and those charged with the cure of souls are gravely bound in justice to hear personally or by another the confessions of those entrusted to their care, as often as they ask reasonably. In case of necessity all confessors are bound in charity to hear confessions, and when there is danger of death all priests are similarly bound (can. 892). Confessors directly violating the seal of confession incur excommunication reserved very specially to the pope; any other person revealing sacramental information is to be punished suitably, even by excommunication (can. 2369).

*Reservation* (C. E., X-784; 785), *add*: Those who by common law can grant power to hear confessions or who can impose censures, except vicars capitular and vicars general without special mandate, can reserve sins (can. 893). The only sin reserved by reason of itself to the Holy See is a false charge of solicitation made against a priest before ecclesiastical judges (can. 894); not only is the sin reserved, but the crime is punished by a new excommunication reserved specially to the pope (can. 2363). Local ordinaries are not to reserve sins, unless the matter has been discussed in the diocesan synod or discussed outside of the synod with the cathedral chapter and some of the more prudent and approved spiritual directors in the diocese, and the necessity or utility of the reservation shown (can. 895). In exempt clerical religious orders only the superior general (cf. C. E., XII-755a), and in independent monasteries, the abbots with their councils can reserve the sins of their subjects (can. 896); however, exempt clerical religious houses must have several confessors endowed with faculties to absolve from reserved sins (can. 518), and any religious seeking peace of soul may also be absolved from sins and censures reserved in his order by any confessor approved by the ordinary, all privileges to the contrary being revoked (can. 519).

Only three sins or four at most should be reserved and these only of the more serious and atrocious external crimes specifically determined; the reservation should not remain in force longer than is necessary to root out some unusual public vice and restore Christian discipline if imperilled (can. 897). No one should ever reserve sins already reserved to the Holy See by reason of a censure, nor as a rule those for which a censure even unreserved has been imposed by law (can. 898). As soon as a local ordinary has decreed any sin reserved he should make the fact known to his subjects and should refrain from granting permission indiscrim-



inately to absolve from it; however, the faculty is enjoyed by the canon penitentiary by express law, and should usually be granted to the vicars forane with the privilege, especially in the more distant parts of the diocese, of sub-delegating it on occasions to the confessors of their districts when they apply to him in a special very urgent case. Parish priests and those ranking with them in the eyes of the law are empowered by express law to absolve from all cases reserved by ordinaries, during the time for fulfilling the Easter duty, and all missionaries enjoy the same power during missions (can. 899).

Finally, reservation loses all its force: (a) when invalids who cannot leave the house or persons who are about to be married go to confession; (b) when the lawful superior has refused the faculty of absolving in a particular case or if a confessor prudently judges that the superior's permission to absolve cannot be asked without grave inconvenience to the penitent or without danger of violating the seal of confession; (c) when the penitent is outside of the territory of the superior who reserved the sin, even if he went away expressly to obtain absolution (can. 900). This power granted to confessors applies to all sins by whomsoever reserved, but does not apply to reserved censures.

Confessions may be made to any lawfully approved priest, whatever his Rite may be (can. 905); men's confessions may be heard in private houses, but women's must not be heard outside of the confessional, except for reasons of sickness or of real necessity, and then suitable precautions approved by the local ordinary must be taken (can. 910).

*Confessors of Nuns* (C. E., XI-166).—In this section the word "nun" is used as including "sisters." To hear confessions of nuns and their novices, validly and licitly, jurisdiction must be obtained from the local ordinary of the convent; all special laws or privileges contrary to this, hitherto enjoyed by any priest, secular or religious, of whatever rank or office, are now revoked; cardinals, however, may hear confessions of any religious throughout the world (can. 876).

Each community of nuns must have an extraordinary confessor not less than four times a year, whom all the nuns must visit to receive at least a blessing. Local ordinaries must appoint for each of the communities of nuns in their territory a few priests who may be easily reached for purposes of confession in particular cases, without the necessity of asking the ordinary each time. If a nun asks for one of these, the mother superior must not seek the reason personally or by another, directly or indirectly, or refuse the request or for any reason show signs of annoyance. Moreover, if a nun for her peace of mind or to make further progress in the spiritual life asks for a special confessor or director, the ordinary should grant one without difficulty, while safeguarding against the danger of abuse (can. 521). If notwithstanding these concessions a nun, for the purpose of tranquillizing her conscience, should go to a priest approved by the local ordinary for hearing women's confessions, her confession in any church or oratory, even semi-public, is valid and licit, all privileges to the contrary being revoked; the mother superior may not prohibit this or inquire about it, and the nun is not obliged to tell her (522). Any nun, who is seriously ill, even if not in danger of death, may call in any priest having faculties to hear women's confessions, even though he has not been appointed to hear those of nuns, and while the illness lasts she may confess to him, as often as she likes, nor has the mother superior any

power to prohibit this directly or indirectly (can. 523). A superioress violating the foregoing prescriptions may be severely punished for abuse of power (q.v.).

Both the ordinary and extraordinary confessors of nuns should be men of great prudence and integrity; they should be at least forty years old, unless the ordinary for just cause decides otherwise, and they should have no control in the external forum over the nuns for whom they are appointed. An ordinary confessor cannot be named as an extraordinary, nor, as a rule, be re-appointed ordinary confessor for the same community before the lapse of a year; an extraordinary confessor, however, may be appointed ordinary confessor at any time. Both classes of confessors are forbidden to meddle in any way in the internal or external government of the community (can. 524). The local ordinary selects the ordinary and extraordinary confessors of a community of nuns subject to himself or to the Holy See immediately; if the nuns are subject to a regular superior, he presents the confessors to the ordinary who approves of them for hearing the confessions of the nuns in question; the ordinary may even select them himself if the superior is negligent (can. 525). An ordinary confessor of nuns may not hold office for more than a term of three years; however, the ordinary may reappoint him for a second and even third term, if this is rendered necessary by a lack of suitable priests, or if the majority of the nuns, including those who have no right of voting in other matters desire, as shown by a secret ballot, to have him confirmed in his office; if the minority, however, in this case desire another confessor, one should be appointed (can. 526). For grave reason the local ordinary may remove any confessor, ordinary or extraordinary, of nuns, even if the house is subject to regulars and the confessor is a regular; he is not bound to state his reason, except to the Holy See on request; but he should notify the regular superior if the nuns are subject to regulars (can. 527).

An ordinary as well as an extraordinary confessor should be appointed for lay communities of men, and if a religious asks for a special confessor the superior must grant his request without asking the reason or showing himself displeased (can. 529).

*Pension, ECCLESIASTICAL* (C. E., XI-645), *add*: An ordinary when conferring a benefice, may for a just cause to be expressed in the act of collation, impose a temporary pension on a benefice, to last during the lifetime of the holder of the benefice, who must, however, be allowed a suitable income. Pensions may be imposed on parochial benefices only in favour of a parish priest or vicar of the same parish retiring from office, but not in excess of one-third of the parish revenues after deducting expenses and uncertain income (can. 1429). If the parish priest retires voluntarily at the request of the ordinary he should receive a better pension than if he was removed (can. 2154). Elevation to the cardinalate deprives a holder of his ecclesiastical pension unless the Holy See provides otherwise in a special case (can. 235).

*Plenary Council* (C. E., XII-164), *add*: A plenary council is convoked and presided over by the papal legate under the pope's orders. It is to be attended by the archbishops, residential bishops, who may send their coadjutors or auxiliaries to represent them, by Apostolic administrators of dioceses, abbots or prelates *nullius*, vicars Apostolic, prefects Apostolic, and vicars capitular, all of whom have a

deliberative vote; titular bishops of the territory may be called by the papal legate and may be allowed a deliberative vote. Those having a deliberative vote must, if they are prevented from attending, send a deputy, who, as such, has only a consultive vote (can. 282; 287).

**Postulant (C. E., XII-319), add:** In institutes with perpetual vows, women and those not intended for the priesthood must pass six months as postulants before beginning their novitiate; in institutes with temporary vows only, the necessity and duration of the postulancy is regulated by the constitutions. A higher superior may prolong the time of trial but not beyond six months. Postulants are not to wear the novices' habit, and must remain in the house of the novitiate or in a house of the institute where religious discipline is strictly observed, under the care of approved religious. Postulants in monasteries of nuns with solemn vows are bound by the law of enclosure. Before beginning their novitiate postulants should make a retreat of eight days, and, if their confessor allows them, should make a general confession of their whole life (can. 539-41).

**Postulation (C. E., XII-319), add:** When a postulation is simultaneous with an election it requires to be effective two-thirds of the votes cast (can. 180). It must be sent to the proper superior within eight days, otherwise it would become invalid by the very fact and the electors would lose their right of election or postulation for that time unless they could prove that they had been legitimately prevented from sending it. If the superior rejects the postulation, the college can proceed with the election unless the person they postulated had an impediment from which a dispensation could not or usually is not granted, in which case the superior provides for the vacancy (can. 180-82).

**Preaching**—The duty of preaching the truths of religion has been committed chiefly to the pope for the whole world and to bishops for their dioceses. No one must undertake the ministry of the word unless deputed by his lawful superior (can. 1327-28); faculties to preach are to be granted only to priests and deacons, though in special cases the local ordinary may authorize other clerics; but laymen, even if in religion, may not preach in church (can. 1342). If a sermon is to be preached only to exempt religious or others, such as servants, pupils, guests, living in their house day and night, the superior grants the faculty to his own subjects or to a secular priest or member of another religious order who have been adjudged competent by their ordinary or superior; in all other cases permission is to be obtained from the ordinary of the place, but if the sermon is to be given to nuns with solemn vows subject to a regular order or to non-clerical religious, permission of the religious superior is to be obtained also (can. 1338). The ordinary must not, without a grave reason, refuse the faculty to a religious presented by his own superior, or recall it later, especially from the entire community at one and the same time; however, religious in order to preach always require the permission of their own superior (1339). The ordinary or superior is bound in conscience not to grant the faculty or permission to anyone whose good character has not been established and who has not passed a suitable examination in theology, and the preacher may be subjected to another examination if his orthodoxy is questionable; if the

faculty is revoked an appeal without suspensive effect may be taken (can. 1340).

No priest from outside of the diocese is to be invited to preach unless the permission of the ordinary of the place where the sermon is to be given has been obtained, and he must not consent before being satisfied as to the preacher's virtue and knowledge. This permission is to be sought by a parish priest for his parish church and others depending on it; by the rector for a church exempt from the jurisdiction of the parish priest; by the highest dignitary, with the chapter's consent, for a capitular church; by the moderator or chaplain of a confraternity for the confraternity church (can. 1341). The local ordinary may preach in any church, even exempt, in his territory; and, except in large cities, may forbid preaching in local churches, while he himself is preaching or is present at a sermon given to the people for some special cause of public interest (can. 1343). A parish priest cannot fulfil his duty of preaching on Sundays and holy days of obligation by a permanent substitute, unless the ordinary consents for a just reason; the ordinary may, moreover, allow the sermon to be omitted on some of the greater feasts and even, where there is good cause, on some Sundays (can. 1344). The Church, while not imposing a precept, wishes that there should be a short discourse on the Gospel or on some point of Christian doctrine at all Masses attended by the faithful on feasts of precept whether in churches or public oratories; if the ordinary prescribes this, all priests, even exempt religious, must obey (can. 1345). The faithful, too, are to be exhorted earnestly to be present at sermons frequently (can. 1348). Preachers are to speak chiefly of what Christians must believe and do to attain salvation; they should abstain from profane arguments and from reasoning that is too abstruse for the ordinary hearer, and remember that the evangelical ministry is to be exercised not by brilliant rhetoric and alluring language but by the manifestation of virtue, by preaching Christ crucified and not themselves (can. 1347).

**Prefect Apostolic (C. E., XII-386), add:** Prefects Apostolic and vicars Apostolic are governed by the same laws except that the former have not to make the canonical visit *ad limina*; they are both included under the term local ordinary (can. 198); the former take possession of their territory by exhibiting the decree or letters patent of the Congregation of Propaganda, the latter their Apostolic letters, to the pro-prefect or pro-vicar of their respective districts (can. 293). Prefects Apostolic ordinarily enjoy in their own territories the same rights and faculties as residential bishops; like vicars Apostolic, even if they have not received episcopal consecration, they can, within their districts and during their term of office, give all the blessings reserved to bishops, except the pontifical blessing, grant indulgences of fifty days, administer confirmation, first tonsure, and minor orders (can. 294). They must require all missionaries, even religious, to show their letters of authorization, and the missionaries, including regulars, must ask leave of them to exercise their ministry, a request not to be denied except to individuals and for grave cause. Even regular missionaries are subject to their jurisdiction, visitation, and correction in matters pertaining to the government of the missions, cure of souls, administration of the sacraments, direction of schools, alms and bequests for the mission. Except in the cases allowed by law, they must not meddle with the discipline of religious under the direction



of their superior; yet, if a dispute arises between them and the religious superiors in connexion with the matters just mentioned, the religious superiors must yield unless they can rely on a special statute approved by the Holy See; the religious, however, may always appeal with devolutive effect (can. 296). If there are not enough secular priests, vicars and prefects Apostolic can, after advising with the superiors, compel religious, even exempt, attached to the mission to undertake the cure of souls, unless the religious have a rule to the contrary approved by the Holy See. Where disputes occur concerning the cure of souls they should settle the difference as soon as possible, but an appeal without suspensive effect may be taken (can. 295-98).

Vicars Apostolic are obliged to make the visits *ad limina* like residential bishops, but where it would be gravely inconvenient they can employ a procurator, even one residing in Rome. They and the prefects Apostolic are to send a written account of the state of their mission, signed personally and also by one of their council to the Holy See every five years, and, moreover, at the close of each year a statement of the number of conversions, baptisms, annual receptions of the sacraments, and other facts worthy of notice (can. 299-300). They may not absent themselves for a notable time from the territories except for a grave and urgent cause, without consulting the Holy See; and they should visit their districts as often as necessary personally or by proxy, if they are lawfully excused, to see if the mission work is being properly conducted. They should select a council of at least three of the older and more prudent missionaries, whom they should consult in more serious and difficult matters. If possible they should call meetings of at least the chief religious and secular missionaries at least once a year to discuss their experience and perfect the means of carrying on the mission work. They are bound by the laws relating to episcopal archives, allowance being made for difference of place and persons. The regulations concerning plenary and provincial councils and diocesan synods should be carried out in territories subject to Propaganda, allowance being made for their peculiar circumstances; no time is fixed, however, for holding them, and the decrees of the councils before being promulgated must be sent to the Congregation of Propaganda (can. 300-4). They are bound gravely in conscience to use every endeavour to build up a native clergy and priesthood (can. 305), and, moreover, must apply Mass for the people entrusted to them on the feasts of the Nativity, Epiphany, Easter, Ascension Thursday, Pentecost, Corpus Christi, the Immaculate Conception, the Assumption, St. Joseph, Sts. Peter and Paul, and All Saints, according to the regulations laid down for bishops (can. 306). They may not, without the knowledge of the Holy See, allow missionaries whom it has sent to leave their territory perpetually, or go into another, or expel them. In a case of public scandal they can, after consulting their councils, and where there is question of a religious, warning his superior as far as possible, remove a missionary, but they must notify the Holy See.

If vicars or prefects Apostolic have received episcopal consecration they have a right to the honorary privileges of titular bishops; otherwise, but only during their term of office and in their own territories, they have the insignia and privileges of the prothonotaries Apostolic *de numero participantium*. On first coming to the territories they must appoint a secular or regular priest as their pro-prefect or pro-vicar, unless the Holy See has given them a coadjutor with right of succession. These ap-

pointees have no power during the lifetime of the prefect or vicar unless what these grant them; but during a vacancy or if the prefect or vicar is impeded so that he cannot exercise his jurisdiction, the substitutes must assume the reins of government till the Holy See has provided otherwise; in the meantime the pro-prefect or pro-vicar must appoint an ecclesiastic to replace him in case of like necessity. If perchance neither the titular nor pro-titular appointed a substitute the senior priest in the territory, that is, the one who first presented his letter there, is considered delegated by the Holy See to assume control, and if several presented them at the same time the one who is longest a priest must act. In the cases just mentioned the substitutes must inform the Holy See as soon as possible; meanwhile they possess all the faculties, ordinary or delegated, possessed by the prefect or vicar, except those granted for personal reasons. Those who have been placed temporarily in charge of a prefecture or vicariate Apostolic, must retain their office with all the powers granted to them until the successor has taken canonical possession (can. 307-11).

**Prescription** (C. E., XII-471c), *add*: The Church, in the matter of acquiring or losing the ownership of ecclesiastical property, accepts in general the principles of the civil law in the various countries regarding prescription. But prescriptive rights do not arise in the case of: (a) what is ordered by natural or positive Divine law, or what cannot be granted except by an Apostolic privilege; (b) spiritual rights, for which a layman is incompetent, if there is question of prescription in favour of a layman; (c) the definitive fixed boundaries of ecclesiastical provinces, dioceses, parishes, vicariates Apostolic, prefectures Apostolic, abbeys or prelaties *nullius*; (d) alms or the obligations of saying Masses; (e) an ecclesiastical benefice without title; (f) the right of visitation and obedience, such that an ecclesiastical person could not be visited by or would not be subject to any prelate; (g) the payment of the cathedra (can. 1508-09). Sacred things in possession of a private individual can be acquired through prescription by a private person, but must not be used for profane purposes; if, however, they have lost their consecration or blessing they can be used for profane, but not for sordid, purposes; so, too, one ecclesiastical moral person may prescribe against another. A private person, however, cannot obtain a prescriptive right to sacred things not belonging to private persons. Immovable property, and movable valuable property, rights and actions, whether personal or real, belonging to the Holy See may be prescribed in a hundred years; those belonging to other ecclesiastical moral persons in thirty years. The prescriptive right does not arise, however, unless there was good faith not only at the beginning but throughout the whole time requisite for prescription (can. 1510-12).

**Acquisition**.—Anyone who, by ecclesiastical or natural law, is competent to deal with his property freely may devote it to pious uses even by a donation *causa mortis* or by will. In bequeathing property to the Church the requirements of the civil law should be fulfilled if possible; if any are omitted the heirs must be warned to carry out the wishes of the testator (can. 1513). The ordinary is the executor of bequests or donations for religious purposes; he must see that the donor's or testator's wishes are carried out, and those delegated to do so must account to him. Any clause in a testa-



ment contrary to this right of the ordinary is to be considered non-existent (can. 1515). A cleric or religious receiving property in trust for pious purposes must inform the ordinary about his trusteeship and the property and its obligations; if the donor expressly and entirely forbids this, the trusteeship must be refused. If the trust to a religious is in favour of a church, or of pious works or of the inhabitants of a place or diocese, the ordinary referred to is the local ordinary, otherwise it is the ordinary of the religious (can. 1516). Changes in carrying out the will of the testator, to be made for a just or necessary reason, are reserved to the Holy See, unless the testator has expressly authorized the local ordinary. If, however, through no fault of the administrators it is impossible to carry out the provisions, on account, for instance, of the small size of the estate or for another reason, the ordinary after consulting the interested parties, may, in an endeavour to carry out the testator's wishes as far as possible, reduce all the bequests proportionately, except that the number of Masses may never be reduced, unless by the express permission of the Holy See alone (can. 1517).

**Alienation.**—The consent of the Holy See is required for a valid contract to alienate any treasures or any church property worth over 30,000 francs (\$6,000), or to incur debts or obligations exceeding that sum. If the goods are valued at 1,000 francs (\$200) or less, the permission of the bishop, who is to consult the council of administration (except in case of things of trifling value) and also of those who are interested suffices. If the value lies between the two figures mentioned, the consent of the cathedral chapter and of the council of administration is also needed. If part of the property has already been alienated, that fact must be stated in applying for permission to sell more (can. 1532). The property is to be appraised by an expert, and ought not to be sold below the price he fixes; the sale should ordinarily be by auction or at least it should be made known publicly, and the property should go to the highest bidder, everything considered without special permission of the local ordinary, however, immovable church property must not be sold or leased to its administrators or those related to them in the first or second degree of consanguinity or affinity (can. 1540). The church has the right of personal action against any person (and his heirs) alienating church property without the proper formalities, and a right of real action against any holder, if the alienation was void. If the alienation was invalid the action may be pursued by the person alienating, his superior, their successors in office or by any cleric of the church that has suffered the injury. To mortgage or pledge ecclesiastical property or to contract debts, the permission of the legitimate superior mentioned above is required; he is to consult those who are interested and to provide for the liquidation of the debt as soon as possible (can. 1538).

In leasing ecclesiastical property worth over 30,000 francs, for more than nine years, the consent of the Holy See is needed. If for less than nine years, or for more than that time provided the value is between 1,000 and 30,000 francs, the consent of the ordinary, cathedral chapter, council of administration and of those interested is needed; but for property of this value, if the time does not exceed nine years, the consent of those interested and of the ordinary, after consulting the council, suffices, which is also the case if the property is not valued at over 1,000 francs and the time exceeds nine years. If the goods do not exceed

1,000 francs in value and the time is less than nine years, the legitimate administrators can act on notifying the ordinary (can. 1541). If the property is held by emphyteusis (perpetual lease), the grantee cannot redeem the rent without the proper superior's authority; the deed of grant must accept the ecclesiastical forum as alone competent to adjudicate in any controversies that might arise between the parties in connexion with the property (can. 1542).

**Privation**, a vindictory penalty imposed by the law or a superior on a cleric, by which he is deprived of his benefice, office, dignity, etc. It cannot be remitted in public cases by the ordinary (can. 2237), and if he himself imposed the penalty he cannot validly confer the office on one of his own household or on one related to him by blood or affinity within the second degree inclusive (can. 157). The following are by the very fact deprived of an office or benefice: those holding an earlier incompatible benefice; bishops-elect who do not receive consecration within six months; *vitandi* excommunicates; a cardinal-elect who refuses to swear to visit the pope within a year. The following are to be deprived of their office: apostates from the faith, heretics, schismatics; a canon theologian or penitentiary who for a year and a half has been gravely negligent in his duties; concubinaries; those conspiring against the pope, a papal legate, or their own ordinary; condemned murderers, sellers of slaves, usurers, stealers of valuables, incendiaries, and those guilty of grave mutilation; those remaining under suspension for seven months; those laying violent hands on a cardinal or legate; those guilty of certain aggravated crimes of impurity; confessors guilty of solicitation; those usurping ecclesiastical goods or the rights and property of the Roman Church; those doing violent injury to themselves, if they hold benefices with the cure of souls; those violating the law of residence. The following persons may be punished by privation: forgers or falsifiers of Apostolic letters, decrees or rescripts or those knowingly using such; those insulting another or injuring their reputation verbally or by writing; those trafficking in Mass stipends, illegitimately removing documents from the diocesan archives, occupying a benefice of their own accord, neglecting to make the profession of faith when necessary, publishing laws, mandates or decrees against the rights of the Church, or utilizing the secular power to impede the exercise of ecclesiastical jurisdiction in any way, and those who sin against the sixth commandment. Anyone who stubbornly refuses to give up an office, benefice or dignity of which he has been legitimately deprived may be suspended and even deposed (can. 2401).

**Privilege** (C. E., XII-437b), *add*: Acquired rights, privileges and indulgences hitherto granted by the Holy See to physical or moral persons, which are still in use and unrevoked, remain in their entirety, unless they have been expressly abolished by the Code (can. 4). When privileges are communicated, even *æque principaliter*, only those privileges granted primarily, directly, perpetually, and without special restriction as to place, thing or person to the body communicating them are deemed communicated. Privileges communicated in accessory form, but not *æque principaliter*, vary according as do those of the chief privileged body (can. 64-5). A religious order can now enjoy only the privileges contained in the Code and those that may be granted directly to it later by the Holy See, no communication of privileges between religious orders being allowed

in future (can. 613). Privileges contained in the Code are revoked by a general law (can. 71), but those granted by rescript are not affected by a contrary law, unless the law states so expressly, or unless the law was enacted by the superior of the person granting the rescript (can. 60).

**Privileges, ECCLESIASTICAL** (C. E., XII-438d), *add*: All the faithful owe clerics reverence in proportion to their different grades and offices, and they render themselves guilty of the crime of sacrilege whenever they inflict a real injury upon clerics (can. 119). No one may cite before a lay judge any cardinal, papal legate, bishop, even titular, abbot or prelate *nullius*, supreme superior of a pontifically approved religious institute, or a higher official of the Roman Curia in matters connected with his office, without leave of the Holy See; nor may any others enjoying the privilege of the forum be so cited without the consent of the ordinary of the place of trial, which is, however, to be given except for grave just reasons, especially if the plaintiff is a layman and all efforts to effect a compromise have failed (can. 120). If, in violation of this canon, any one dares so to cite a cardinal, Apostolic legate, or a higher official of the Roman Curia in a matter connected with his office, or his own bishop, he thereby incurs excommunication reserved specially to the Holy See; if he cites any other bishop, even titular, an abbot or prelate *nullius*, or a higher superior of a pontifically approved religious community, he incurs excommunication reserved simply to the Holy See; if he cites any other person enjoying the privilege of the forum, he, if a cleric, incurs thereby suspension from office reserved to the ordinary; if a layman, he is to be punished by the ordinary as his offence demands (can. 2341).

**Profession, RELIGIOUS** (C. E., XII-451), *add*: **Validity.**—The requisites for valid profession are: The candidate for temporary profession should be at least sixteen years old, for perpetual profession at least twenty-one; he must be admitted to profession by his lawful superior according to the constitutions, after making a valid novitiate; the profession must be explicit and made without compulsion, grave fear, or fraud, in the presence of the lawful superior or his delegate in accordance with the constitutions. For the validity of perpetual profession it is necessary, moreover, that it should have been preceded by a simple temporary profession in accordance with the law (can. 572). This temporary profession is to be made by the novices of every order and of every congregation with perpetual vows at the end of their probation in the house of the novitiate; the vows must be made for three years or for a longer period in the case of those who at the end of three years will not have reached the age required for perpetual profession, unless the constitutions prescribe yearly professions. The legitimate superior can prolong this period of three years in order, if necessary, to test a vocation by making a religious renew his profession, but not beyond another period of three years (can. 574). This temporary profession is omitted by those who, having been perpetually professed in an order or congregation, change with permission of the Holy See to another order or congregation; on completing their new novitiate, they make a temporary profession, and may then make the perpetual profession at once or, if the superior thinks they ought to be tested further, after a period not longer than one year (can. 634). *When the period of temporary profession is over,*

religious must make their perpetual profession according to the constitutions or return to the world.

The authorities of the institute may dismiss religious at the end of any period for which temporary vows have been made, but only for just and reasonable causes, among which ill-health is not reckoned, unless it can be proved with certainty that it was deceitfully concealed or dissimulated before the temporary profession. For the first temporary profession the superior must have the consent of the council or chapter; for the subsequent perpetual profession their advice suffices (can. 575; 637). On making his profession a written formula of the profession should be signed by the religious and at least by him before whom the profession was made; this should be kept in the archives of the institute; if the profession was solemn, the superior who received it must notify the parish priest of the place of baptism of the newly-professed religious (can. 576). The reason for this notification is that solemn profession incapacitates a person from contracting marriage, and as before a marriage the parties are required to procure a baptismal certificate from their place of baptism, the danger of a sacrilegious attempt at marriage is eliminated, as the impediment would be on record. The renovation of vows must take place immediately after the expiration of the time for which they were previously made; superiors, however, for just cause may allow the renovation to be advanced, but not by more than a month (can. 577).

In virtue of his temporary profession a religious enjoys all the indulgences, privileges, and spiritual favours of the solemnly professed, and if he should die he has a right to the same prayers and Masses as they. He is under the same obligation to observe the rules and constitutions, but where choir is obligatory, he is not bound to recite the office in private, unless he is in holy orders, or the constitutions expressly provide otherwise. He does not possess the right of active and passive voice, unless the constitutions confer it on him expressly; if the constitutions are silent on the matter the time at which he may enjoy it is reckoned from his first profession (can. 578). Acts contrary to simple vows, whether temporary or perpetual, are illicit but not invalid, unless provision to the contrary has been made expressly; for instance, marriage in such a case, though unlawful and sinful, would be valid. Acts contrary to solemn profession are invalid if they are incapable of annulment, for instance marriage, or a sale of property (can. 579).

**Property.**—Professed religious with simple vows, whether perpetual or temporal, retain the ownership of their property and can acquire more, unless their constitutions provide differently. As has been mentioned in the article *Novice*, before simple profession the religious while retaining the ownership of his property must give over the administration of his property to any person he selects, and, if the constitutions do not provide otherwise, must dispose of its use and revenues in any way he pleases. The word "dispose" used in the canon is not clear, as it might mean "give away entirely" or "arrange what is to be done with." If these formalities regarding the administration of the property and the disposal of its use and revenue were omitted for any reason before simple profession, they must be observed with the same freedom after the simple profession, notwithstanding the vows of the religious. If the constitutions do not allow a religious to change the administration of his property or the disposal of its revenue at his discretion, he must have the leave of his supe-



rior general, or in case of a nun with solemn vows, of the local ordinary, and of the regular superior if the monastery is subject to regulars, provided he is not making the change in favour of his own institute, at least if it involves a considerable part of his property. If the professed religious should, however, leave the institute before making solemn vows the provisions as to the administration and the disposal of the revenue would cease to hold. What a simply professed religious receives as a recompense for his work done or what is given to him for the sake of the community belongs not to him but to the institute (can. 580).

Apart from special Apostolic indults, the professed with simple vows cannot validly renounce their property before the last sixty days preceding their solemn profession; within those sixty days, however, they must renounce all the property they then have in favour of anyone they wish, the renunciation to become effective only when the solemn profession takes place. Immediately after this profession steps should be taken to have the renunciation made binding in civil law (can. 581). Due regard being had to special Apostolic indults, all property devolving in any way to a religious after solemn profession goes to the order, province, or house, according as the constitutions provide, if the order is capable of owning property; should the order be incapable, the Holy See becomes the owner (can. 582). Professed with simple vows in religious congregations may not divest themselves of the ownership of their property by a free gift, nor may they change the will which they made as novices, in accordance with canon law, without leave of the Holy See, or in urgent cases of a higher superior or even a local superior if there is no time to have recourse to the Holy See or higher superior respectively (can. 583). Formerly the giving up of ownership was forbidden only while the religious had temporary simple vows, now it is forbidden also when these vows are perpetual.

A parochial benefice becomes vacant after the lapse of a year from the first profession of the holder, all others after three years (can. 584). On being perpetually professed a religious loses by law his right to his diocesan incardination (can. 585). A religious profession which was invalid on account of an external impediment can be validated only by the Holy See or by lawful profession after its nullity has become known and the impediment removed; if, however, it was invalid from a mere internal defect of consent, it becomes valid when that consent is given, provided the institute has not already withdrawn its consent (can. 586).

**Profession of Faith.**—All customs to the contrary being reprobated, a profession of faith according to the formula approved by the Holy See must be made personally, not by proxy, and always before a cleric as follows: (a) Those who assist at a general or special council or diocesan synod with a consultative or deliberative vote, make it before the president or his delegate; the president, before the council or synod; (b) cardinals-elect, before the dean of the sacred college, the first cardinal priest and deacon, and the camerlengo; (c) those promoted to episcopal sees, even non-residential, or to abbeys *nullius*, vicariates Apostolic, or prefectures Apostolic, before an Apostolic delegate; (d) a vicar capitular, before the cathedral chapter; (e) those promoted to a dignity or canonry, before the local ordinary or his delegate and before the chapter; (f) newly-appointed diocesan consultors, before the local ordinary or

his delegate and before the other consultors; (g) vicars general, parish priests, and all those who have been provided with a benefice, even manual, having the cure of souls annexed; rectors and professors of theology, canon law, and philosophy in seminaries, at the commencement of each scholastic year or at least on taking office; all candidates for the subdiaconate; all diocesan censors of books; all priests before obtaining faculties to hear confessions or to preach, make the profession before the local ordinary or his delegate; (h) the rector of a university or faculty, before the ordinary or his delegate; all the professors in a canonically erected university or faculty, at the beginning of each scholastic year or at least on assuming office, and candidates who having passed the examinations are about to receive their degrees, before the rector of the university or faculty or his delegate; (i) superiors in clerical religious orders or congregations, before the chapter or the superior who designated them or his delegate. Those who are appointed to any office, benefice, or dignity, even of the same kind as one which they had previously held, must again make the profession, in the manner prescribed above (can. 1406-08). Anyone who neglects to make this profession without just cause is to be admonished after a suitable time; should he then prove contumacious he is to be punished with privation of his office, benefice or dignity, and the revenue accruing therefrom (can. 2403).

**Property, ECCLESIASTICAL (C. E., XII-472), add:** The Catholic Church and the Apostolic See have an innate right, independent of the civil power, of acquiring, holding, and administering temporal property for the attaining of their proper ends; and individual churches and moral persons erected by ecclesiastical authority as legal entities have also a similar right in accordance with the sacred canons (can. 1495). The Church has a right, independent of the civil power, of exacting from the faithful whatever is necessary for Divine service, the decent support of the clergy and other ministers, and the ends for which the Church exists (can. 1496). It may acquire temporal goods by all means lawful to others (can. 1499). The ownership of ecclesiastical property vests, under the supreme authority of the Holy See, in the moral person who acquired it legitimately; if that person perishes the dominion passes to its immediate superior, respecting, however, the wishes of the founder or donor, the rules governing the moral person, and outstanding rights (can. 1501). No one, whether lay or cleric, may collect for any pious or ecclesiastical institute or object without the written authority of the Holy See or of the ordinary of the collector and the ordinary of the place where the collection is to be made. Mendicant orders, however, may collect in their own diocese with their immediate superior's license. All other non-diocesan religious are forbidden to collect, without a special Apostolic privilege; if this is granted they require in addition the ordinary's written consent. Ordinaries of the Latin Rite must not allow any Oriental of whatever order or dignity to collect money in their territories, without an authentic recent rescript of the Sacred Congregation for the Eastern Church (can. 621-22), nor may they send their subjects into eastern dioceses for such a purpose.

**Provincial Councils (C. E., XII-515), add:** Provincial councils are to be held at least every twentieth year (can. 283). Bishops not subject to a



metropolitan, abbots or prelates *nullius*, archbishops without suffragans, must elect, after obtaining Apostolic approval, to attach themselves to a neighbouring metropolitan whose provincial councils they will assist at and be bound by (can. 285). The metropolitan should summon the bishops of his province at least every five years to meet and consult about religious conditions and prepare for the next council (can. 292). Among those who should be invited to and should attend provincial councils are prefects Apostolic, cathedral chapters or diocesan consultors, who are to be represented by two of their members selected by their college and also superiors of monastic congregations and higher exempt clerical superiors residing in the province; of these only the prefects Apostolic have a deliberative vote. No penalties are mentioned in the Code for a violation of the obligation to attend the councils (can. 286). On the conclusion of the council the president is to forward the acts and decrees to the Holy See for examination by the Holy Congregation of the Council; they are not

to be promulgated until approbation has been given. After promulgation, local ordinaries cannot dispense from the decrees unless for just cause in particular instances (can. 291). In places subject to the Congregation of Propaganda the regulations concerning provincial councils should be observed as far as possible allowing for altered circumstances; no time for holding the councils, however, is laid down, but the acts and decrees are to be submitted to Propaganda and not to the Congregation of the Council (can. 304).

**Public Honesty** (C. E., XII-554), *add*: This matrimonial impediment now arises only out of an invalid marriage, whether or not consummated, and out of public or notorious concubinage. It is a diriment impediment between the man and the blood relatives of the woman in the first and second degree of the right line, and vice versa. Public honesty in the second degree is an impediment of minor rank (can. 1042; 1078).

## R

**Rector** (C. E., XII-676), *add*: A rector is a priest in charge of a church that is neither parochial, nor capitular, nor annexed to the house of a religious community which holds its services there. Rectors are usually appointed by the local ordinary; in other cases they require his approbation; for instance, where there is a right of election or presentation, or where the church is under the control of an exempt religious order or congregation; in all cases they may be removed by him at will for just cause. As a rule the superior of a seminary or college directed by clerics is rector of the annexed church. Rectors must refrain from acting as parish priests; they may, however, be ordered by the local ordinary to say Mass at a convenient hour, to announce the feasts and fasts, and to explain the Gospel and the catechism, if the parish church is so far away that parishioners cannot attend it without great inconvenience (can. 479-86).

**Register, BAPTISMAL** (C. E., XII-721), *add*: The parish priest after baptizing must enter the name of the person baptized, together with those of the minister, parents, and sponsors, as well as the date and place of baptism, in the baptismal register without delay. If the child is illegitimate the mother's name is to be inserted, if she is known publicly to be the mother or if she freely asks in writing or in the presence of two witnesses to have her name recorded; so, too, is the father's name if he freely asks the parish priest in writing or before two witnesses, or if the fact is known from a public authentic document; otherwise the child is to be registered as of unknown father or parents (can. 777). If the baptism was not administered by the parish priest of the subject or in his presence, the minister must inform the parish priest of domicile as soon as possible (can. 778). To prove a baptism it will be enough, if no one's rights are thereby prejudiced, to have the testimony of one unexceptionable witness, or the affidavit of the person baptized, if he had attained the use of reason when the ceremony took place (can. 779).

**Relationship** (C. E., XII-731), *add*: Spiritual relationship arises now only in three cases: (a) between the baptizer and the person baptized; (b) between the sponsor and the person baptized; (c) between the sponsor and the person confirmed. This relationship causes a matrimonial impediment in the first two instances only (can. 1079; 768; 797).

**Religious Life** (C. E., XII-754), *add*: At the beginning of the canons dealing with religious life the Code defines exactly the meaning it attaches to certain important frequently occurring terms as follows: A religion is a society, approved by legitimate ecclesiastical authority, whose members according to the special laws governing their society make public vows, whether perpetual or temporary, to be renewed if temporary after the lapse of a specified time, and thus tend after evangelical perfection. An order is a religion in which solemn vows are made; a monastic congregation is a union of several self-governing monasteries under one

superior; an exempt religion is a society with solemn or simple vows, withdrawn from the jurisdiction of the local ordinary; a religious congregation, or simply congregation, is a society with simple vows only, whether perpetual or temporary. A pontifical institute (*religio iuris pontifici*) is a religious organization which has received approbation or at least a commendatory decree (*laudis decretum*) from the Holy See; a diocesan institute is a religious organization erected by an ordinary and as yet without the commendatory decree. A religious organization is termed clerical if its members generally receive the priesthood, otherwise it is lay. A religious house is the residence of any religious organization; a regular house is one belonging to an order; an established house (*domus formata*) is a religious house in which there are at least six professed religious, of whom four must be priests if the institute is clerical. A province is a union of several religious houses belonging to one religious organization and under the same superior.

Religious are those who have made vows in any religious organization; religious with simple vows are professed members of a congregation; regulars are professed members of an order; sisters (*sorores*) are women religious with simple vows; nuns (*moniales*) are women religious with solemn vows, or if the very nature of things or the context does not imply otherwise, women religious whose vows by rule should be solemn, but which for certain localities have been declared simple by the Holy See. Higher superiors are the abbot primate, abbot superiors of a monastic congregation, abbots of monasteries *sui iuris*, even if the monastery belongs to a monastic congregation, the general or supreme ruler of a religious society, the provincial superiors, their vicars and all others having the same jurisdiction as provincials (can. 488).

Rules and constitutions of religious societies opposed to the canons of the Code are abrogated, otherwise they continue in vigour (can. 489).

Bishops, but not vicars capitular or vicars general, can erect religious congregations, but must neither do so nor forbid their erection, without consulting the Holy See; moreover, where there is question of tertiaries living a common life, they must be aggregated by the supreme ruler of the first order. A diocesan congregation, even though spread through several dioceses, remains diocesan and subject to the ordinaries until it obtains the papal approbation or commendatory decree. The name or habit of a constituted religious organization may not be assumed by those not belonging to it or by a new religious body. No legally established religious organization, even if it is diocesan and has only one house, can be suppressed except by the Holy See, to whom in case of suppression the disposal of the property is reserved, with due respect to the wishes of the donors or benefactors of the organization. It is the exclusive prerogative of the Holy See to divide, unite or modify provinces of a pontifical order or congregation or to found or suppress new provinces thereof, or to separate independent monasteries from a monastic congregation and unite them to another.

If a province is suppressed the general chapter or, if it is not in session, the supreme ruler with his council, has, unless the constitutions provide otherwise, the right to dispose of its property, due regard being had of the claims of justice and the wishes of founders. A diocesan religious congregation cannot establish a house in another diocese without leave of the local ordinaries both of the mother-house and of the other diocese; the first-named ordinary, however, is not to refuse permission without grave cause. If the congregation exists in several dioceses, none of its laws may be changed without the consent of each of the ordinaries into whose dioceses it has been introduced (can. 492-95).

The approval of the Holy See and the local ordinary's written consent are required for the erection of an exempt religious house, whether fully established or not, or of a monastery of nuns (*moniales*), or of any religious house in a territory subject to the Congregation of Propaganda; in all other cases, the ordinary's leave suffices. Permission to erect a new house authorizes clerical religious to have a church or public oratory annexed to the house, though before building it in a specified place they must obtain the ordinary's leave, and to exercise their sacred ministry within the limits of the law; it also authorizes both clerical and lay religious to carry on the pious works proper to them, unless they are restricted by the terms of the permit. To erect and open schools, hospitals or other such buildings apart from a religious house, even exempt, it is sufficient but necessary to get the ordinary's leave in writing. To convert a religious house to other purposes permission must be obtained from the same authorities as authorized its erection, unless the change is merely a matter of internal discipline and in accordance with the laws of the foundation. A religious house, whether fully established or not, belonging to an exempt religion, cannot be suppressed without leave of the Holy See; if it belongs to a non-exempt pontifical congregation, it can be suppressed by the general, with the local ordinary's consent; those belonging to a diocesan congregation can be suppressed by the mere authority of the local ordinary, after hearing the moderator of the congregation, unless it is the only house of the institute, but an appeal with suspensive effect may always be made to the Holy See (can. 497-98).

**Superiors.**—Exempt clerical superiors have ecclesiastical jurisdiction over their subjects in both the internal and external fora. However, the abbot primate or abbot superior of a monastic congregation does not enjoy all the power and jurisdiction conferred by the common law on higher superiors, but is limited in accordance with the constitutions and with special papal decrees (can. 501).

Higher superiors should hold office temporarily, unless the constitutions provide otherwise; minor local superiors must not be appointed for more than three years, though they may be re-appointed for a second term, if the constitutions so permit, but not for a third consecutive term in the same house. What is here said of minor local superiors applies to superiors and directors of schools, hospitals, and other pious houses, if they are superiors of religious, having power over other religious even in matters of religious discipline. Before the election of higher superiors in religious institutes of men, each and every member of the chapter must swear to select the person he believes most fitted for the office in the sight of God (can. 505-06). Superiors are to reside in their own house and not

to leave it, except as permitted by the constitutions. All superiors must see that their subjects are informed about papal decrees relating to religious and that the decrees are observed; and local superiors are to have the constitutions and certain prescribed papal decrees read publicly on stated days at least once a year. An abbot primate, superiors of monastic congregations and generals of pontifical orders and congregations must transmit to the Holy See every fifth year, or oftener if the constitutions so provide, a report on the religious condition of their order or congregation, signed by themselves and their councils, and in case of congregations of women, signed also by the ordinary of the place of residence of the mother-general and her council (can. 508-10). In religion there must be no merely honorary titles of offices or dignities; however, those who have been higher superiors may retain their title, if the constitutions of their religion so permit (can. 515).

**Property.**—To invest or re-invest money the consent of the local ordinary must be obtained by: (a) mother superiors of nuns (*moniales*) and of diocesan congregations, in all cases; if the monastery is subject to a regular superior his permission also is needed; (b) mother superiors of pontifical congregations, for the investment of dowries of the professed; (c) superiors of houses of congregations, if money has been given by will or otherwise to be spent locally in the service of God; (d) any religious, even a regular, if the money has been given for the benefit of a parish or mission (can. 533). To contract debts amounting to more than 30,000 francs (\$6,000), or to alienate property exceeding that sum the consent (*beneplicium*) of the Holy See is required; for smaller amounts it is necessary but sufficient to have the written permission of the superior according to the constitutions of each organization with the consent of his chapter or council given by secret ballot; but nuns or sisters of diocesan institutes must have the written consent of the local ordinary and of the regular superior if the nuns' monastery is subject to regulars. In a petition for leave to contract debts or obligations it is necessary to set forth the other debts or obligations incurred to date by the moral person, order or congregation, province, or house, otherwise the permission if granted would be invalid (can. 534). In all monasteries of nuns (*moniales*), even exempt, an accounting must be made once a year, or oftener if the constitutions so provide, by the reverend mother to the local ordinary, and to the regular superior also, if the monastery is subject to one; should the accounting be unsatisfactory he can apply suitable remedies, and even remove the oconomus and other administrators; if the monastery is subject to a regular superior the ordinary should notify him and if the latter neglects to act the ordinary may take measures to correct the evil. In all other religious orders or congregations of women, an accounting is to be made to the local ordinary during visitation, or oftener if he judges it necessary, concerning the administration of the dowries. The local ordinary, moreover, is entitled to be informed of the household affairs of houses of diocesan institutes, and of the administration of funds and legacies given for the welfare of a parish or mission to be spent locally in the service of God (can. 535).

If an institute, province, or house, contracts debts or obligations even with the superior's leave, it incurs the responsibility; if a regular incurs obligations with his superiors' consent, the responsibility devolves on the moral person whose superior granted permission; a religious of a congregation



with simple vows who contracts debts is responsible, unless he was acting on behalf of the congregation with the superior's leave; however, if the religious contracts without his superior's leave his institute, province, or house incurs no responsibility. Religious superiors are warned not to run into debt, unless it is certain that their ordinary revenues are sufficient to pay the interest and extinguish the debt by amortization within a reasonable time (can. 536). Donations may not be made from the property of a house, province, congregation or order, except as alms or for another just cause, and then only with the superior's leave and according to the constitutions (can. 537).

**Visitation.**—The higher superiors who are designated in the constitutions are to visit all the houses subject to them, at the times appointed, either personally or by a delegate if they are excusably prevented. Every five years the local ordinary must visit personally or by a proxy: all convents of nuns (*moniales*) subject to himself or immediately to the Holy See; all houses of diocesan institutes; all convents of nuns (*moniales*) subject to regulars, to enquire about the enclosure and even about all matters if the regular superior has not made a quinquennial visitation; all houses of pontifical clerical congregations, even exempt, to inspect the church, sacristy, public oratory, and confessional; all houses of pontifical lay congregations, regarding the matters just spoken of and also in connexion with internal discipline (can. 511-12).

**Studies.**—Each clerical religion should have a scholasticate, where common life must be followed if the students are to be eligible for ordination. If the religion or province has no house of studies the students are to be sent to the scholasticate of another province or religion, or to an episcopal seminary or public Catholic atheneum. Religious who study at a distance from their house must reside in a place approved by the Holy See, not in private houses. During their studies, scholastics must be under the special guidance of a spiritual father or prefect; they must be granted ample time for study and the general, or in special cases other superiors, can exempt students, if necessary, from certain community duties, such as choir, especially at night. After completing their studies they are to be examined annually for five years. In every fully established house there must be at least monthly a discussion of a case in moral theology or liturgy, at which all members of the house who are studying or have studied theology must attend, unless the constitutions provide otherwise (can. 587-91).

The obligations of clerics are as a rule binding on religious; they must make an annual retreat, attend daily Mass if possible, meditate daily and perform the works and devotions prescribed by their rules; they are to go to confession weekly and receive Holy Communion frequently, even daily; but provisions in their rules regarding the reception of the sacraments on certain days have only a directive force (can. 596).

**Renunciation** (C. E., XII-774), *add*: Renunciation of an ecclesiastical office must be made in writing, or orally in presence of two witnesses, or by proxy (can. 186), and must be accepted or refused by the local ordinary within a month. If the renunciation has been lawfully accepted the office becomes vacant as soon as the person renouncing is informed of the fact (can. 190). A cleric is considered by the law to have renounced his office tacitly: (a) if he becomes a professed religious;

benefices, however, in this case are not vacated immediately; (b) if he neglects to take up his post within the time appointed by law, or by the ordinary if the law is silent on the point; (c) if he comes into peaceful possession of a post incompatible with a former office; (d) if he apostatizes publicly; (e) if he contracts marriage, even civil; (f) if without just cause he becomes a soldier voluntarily; (g) if he unjustifiably and of his own accord leaves off his clerical dress and after being warned by the ordinary does not put it on again within a month; (h) if when he is bound by the law of residence he absents himself unlawfully and, when not legitimately excused, neglects to obey or answer the ordinary within a suitable time appointed by the latter (can. 188).

**Rescripts** (C. E., XII-783; V-691d), *add*: Concealment of the truth in a petition for a rescript does not necessarily render it invalid, nor does a falsehood, provided the sole reason or at least one of those alleged is true (can. 42; see *Motu Proprio*; *Dispensation*). The words of a rescript are to be taken in their common acceptation; in case of doubt a wide interpretation is allowed, except where the interests of third parties or of the public are involved, or in reference to lawsuits, or when the petition was made to secure a benefice (can. 49-50). A rescript if revoked by a superior is still valid until revocation has been made known to the person who obtained it; it is not revoked by a contrary law, unless the law provides for this or unless the law has been enacted by a superior of the grantor of the rescript (can. 60). For the execution of a rescript nothing may be charged above the tax fixed by the provincial council (can. 1507).

**Residence** (C. E., XII-785), *add*: A parish priest or other cleric violating the law of residence in virtue of which he holds a benefice is to be warned by the ordinary of the penalties to which he is exposing himself and to be ordered to fulfil his obligation within a reasonable time. If the cleric does not return home or if he excuses himself the ordinary is to declare the benefice vacant—in case of a parish priest after inviting him to resign and ascertaining that he has received the invitation and is not lawfully excused from answering it. If the cleric resumes his residence the ordinary must deprive him of the fruits of his benefice for the time of his absence if it was unlawful and may inflict further punishment if fitting. If, however, the cleric remains away but sends an excuse, the ordinary is to call in two examiners and see if the excuse is valid. If after consulting the examiners the ordinary deems the reason alleged insufficient, he is to command the cleric to return within a certain time, meanwhile the cleric is to be deprived of the fruits of the benefice. If a removable parish priest does not return within the time assigned, he may be deprived of his parish forewith; if he returns the ordinary is to impose on him a precept not to go away again without his written permission under penalty of being deprived *ipso facto* of his parish. If the cleric has an irremovable benefice and does not obey the summons to return but brings forward new excuses, these are to be examined as above and a similar procedure followed. In neither case, however, is the ordinary to declare the benefice vacant until after considering with the examiners the reasons the cleric may have alleged for going away he is convinced that the cleric could have asked for the ordinary's written permission (can. 2168-75).

**Roman Congregations** (C. E., XIII-136), *add*: The Congregation of the Holy Office (C. E., XII-137) is now charged with the duties of the Congregation of the Index, which was suppressed on 25 March, 1917, and it alone is competent to deal with questions relating to the Eucharistic fast of priests celebrating Mass. On the other hand, what relates to the use and concession of indulgences, except dogmatic pronouncements regarding new prayers and devotions, has been transferred from the Holy Office to the Apostolic penitentiary (can. 247; 258).

The Congregation of the Consistory (C. E., XIII-139) has now a third cardinal ex-officio member, namely the prefect of the Congregation of Seminaries and of Universities of Studies, and a new ex-officio consultor, the secretary of the last-mentioned congregation. It no longer decides questions of competency arising between the various congregations, tribunals, and offices of the Roman Curia, these being settled by a body of cardinals selected by the pope each time a dispute arises (can. 245).

The Congregation of Propaganda (C. E., XII-456; XIII-143) has jurisdiction, also, over societies of ecclesiastics and seminaries founded exclusively for the training of missionaries for foreign missions, particularly in connexion with their rules and administration and the granting of concessions regarding the ordination of the alumni (can. 252). It no longer has any jurisdiction over Catholics of Eastern Rites, even in questions involving Latins. For them the Congregation of the Eastern Church has been established, with the same power over the subjects and churches of the Eastern Rites as the other congregations have over those of Latin Rite, respecting, however, the jurisdiction of the Holy Office (can. 257).

The Congregation for Extraordinary Ecclesiastical Affairs (C. E., XIII-145) is charged with the formation or division of dioceses, and the filling of vacant sees, when civil governments have to be consulted on these matters; it deals, moreover, with affairs entrusted to its examination by the pope through the cardinal secretary of State, when for-

eign civil law or papal concordats are involved (can. 255).

On 4 November, 1915, the Congregation of Seminaries and of Universities of Studies was formed to have jurisdiction over everything pertaining to seminaries, which previously had been controlled by the Congregation of the Consistory; it supervises the government and course of studies in Catholic faculties or universities, including those directed by religious; it grants permission to confer academic degrees and may itself confer them on men distinguished for their attainments. The cardinal secretary of the Consistory is an ex-officio member, and the consistorial assessor an ex-officio consultor of this congregation (Code, can. 256).

During a papal vacancy the sacred congregations retain their ordinary powers; they may exercise these freely in matters of minor importance; in more serious affairs they should await the election of the new pope, but if the matter is very urgent it may be settled provisionally by the prefect and a few of the cardinals of the congregation to whom the pope would likely have entrusted it. They may not, however, deal with matters which during the lifetime of the pope they cannot decide without consulting the sovereign pontiff or in virtue of special and extraordinary faculties, which the pope is accustomed to grant the prefects or secretaries of the congregations (Vacante Sede Apostolica, nn. 22-5).

**Roman Curia** (C. E., XIII-152), *add*: The Apostolic datary is to investigate the fitness of candidates for non-consistorial benefices reserved to the Holy See; to write and dispatch the Apostolic letters for the collation of these benefices; to dispense from the condition required in collating, when the collation is not a right of the ordinary; and to see to the pension and charges imposed by the pope when conferring these benefices (can. 261).

The Apostolic Camera (C. E., XIII-152) is charged with the care and administration of the property and temporal rights of the Holy See, especially during a papal vacancy (can. 262).

# S

**Sanctuary, Right of** (C. E., XIII-430), *add*: Churches enjoy the right of asylum to this extent, that culprits taking refuge there are not to be removed, except in case of necessity, without the assent of the ordinary or at least of the rector of the church (can. 1179).

**Secularization** (C. E., XIII-677), *add*: Religious who become secularized are freed from their vows, except from the obligations incurred if and when they received major orders (can. 640); formerly they owed not merely canonical obedience to the bishop but also obedience in virtue of their religious vow. If a religious in sacred orders who has not lost his diocesan rights by perpetual profession leaves his institute either when he ceases to renew his vows or in virtue of an indult of secularization, he must return to his diocese and be received by his own bishop; if he has lost those rights, he cannot exercise his sacred orders after leaving his institute until some bishop consents to receive him or the Holy See provides otherwise. A bishop may receive him unconditionally, in which case he is thereby incardinated in the diocese; or he may admit him on probation for three years, or even six but not more; when the term of probation ends, if he has not been dismissed he is by the very fact incardinated (can. 641). The restrictions placed on secularized religious, mentioned in C. E., XIII-678c, are practically unchanged, except that in the first case benefices alone, not offices, are mentioned, while the fifth regulating the place of residence is omitted. The restrictions are extended to those who have been dispensed from their temporary vows, or oaths of perseverance, or any special promises made according to their constitutions, provided they had been thus bound for six complete years (can. 642). Those who leave their institute on the completion of the period of their temporary vows or who are secularized or dismissed can claim nothing for their work while in the institute. If, however, a nun or sister who was received without a dowry has not sufficient means to support herself, the institute is bound in charity to give her the expenses of her journey home and enough to enable her to live respectably for some time, the amount to be agreed upon mutually, or in case of disagreement fixed by the local ordinary (can. 645).

**Seminary** (C. E., XIII-701), *add*: The episcopal advisory board of a seminary is appointed for six years by the bishop; the vicar general, rector of the seminary, economist, ordinary confessors, and members of the bishop's household may not be members of it (can. 1359). The bishop must see that the seminarians each day recite their morning and evening prayers in common, make a meditation, and assist at Mass, that they go to confession at least twice a week and receive Holy Communion frequently, that on Sundays and feasts, they be present at Mass and Vespers, taking part in the ceremonies especially in the cathedral, if the bishop judges that discipline and studies would not suffer thereby, that they make the spiritual exer-

cises annually for some days, and assist at a religious instruction at least once a week. The seminary is exempt from the parish priest's jurisdiction (can. 1367-68).

**Suspension** (C. E., XIV-345), *add*: Suspension *ab officio* means that one is forbidden to exercise the power of orders and of jurisdiction, or to act as an official administrator; suspension from jurisdiction generally forbids all acts of jurisdiction in either forum, whether ordinary or delegated; suspension *a divinis* forbids all exercise of the power of orders obtained through ordination or by a privilege; suspension *ab ordinibus* forbids all exercise of the power of orders obtained through ordination; suspension *a sacris ordinibus* forbids all exercise of the power of orders received through major ordination (can. 2279). When a cleric has been suspended by a sentence prohibiting him from exercising jurisdiction, his acts involving the exercise of jurisdiction are invalid (can. 2284); any one who, notwithstanding the fact that he did not receive a certain order or has been suspended from its exercise, presumes to exercise such order incurs an irregularity (can. 985).

Suspension reserved to the Holy See is incurred *ipso facto*: (a) by a consecrating bishop, the assistant bishops or priests, and the bishop consecrated when there was no Apostolic mandate—general suspension (can. 2370); (b) by clerics who have received or administered sacraments simonically—general suspension (can. 2371); (c) by one who has presumed to receive orders from a person censured by sentence, or from a notorious apostate, heretic, or schismatic—suspension *a divinis*; those, however, who acted in good faith in receiving these orders may exercise them if dispensed (can. 2372); (d) it is incurred for a year by one who ordained an extern without proper dimissorial letters, or his own subject without testimonial letters from the ordinaries of the places where he lived long enough to contract a canonical impediment, or by one conferring major orders on a candidate who lacked a canonical title, or on a religious who did not belong to a house situated in the territory of the ordaining bishop unless the extern bishop consented or was of a different Rite or was absent or not holding ordinations at the specified times or had died and left no one with episcopal orders in his place—suspension from conferring orders (can. 2373); (e) by a religious in major orders whose profession has been declared null by reason of his deliberate deceit—general suspension (can. 2387); (f) by a chapter or those who have admitted a person elected, presented, or nominated, before he has exhibited the necessary letters—suspension from the right of election (can. 2394).

Suspensions reserved to the ordinary are incurred *ipso facto*: (a) where a cleric without his ordinary's leave has cited any one enjoying the privilege of the forum before a lay judge—suspension from office (can. 2341); (b) where a religious has left his community, but with the intention of returning—general suspension (can. 2386).



Suspension is not reserved when incurred *ipso facto* (a) by a priest presuming to hear confessions or to absolve from reserved sins, without obtaining the necessary jurisdiction—suspension from hearing confessions (can. 2366); (b) by those who with malice have had themselves ordained without dimissorial letters or with false ones, or before the canonical age, or without having received the lower orders—suspension from the order received (can. 2374); (c) by a cleric who presumes to resign his ecclesiastical office, benefice, or dignity into lay hands—suspension *a divinis* (can. 2400); by an abbot or prelate *nullius* who has neglected to obtain the necessary episcopal blessing within the fixed time—suspension from jurisdiction (can. 2402); (d) by a vicar capitular who unlawfully grants dimissorial letters for ordination during a vacancy—suspension *a divinis* (can. 2409); (e) religious superiors who unlawfully presume to send their subjects to be ordained by an extern bishop—suspension from saying Mass for a month (can. 2410).

*Suspension ex informata conscientia.*—This extraordinary remedy may not be applied by the ordinary if the usual method of procedure can be followed without grave inconvenience. The decree is

generally but not necessarily to be in writing and should contain the exact date, an express statement that the suspension is *ex informata conscientia*, an indication of the duration, which must be temporary, unless the suspension is inflicted as a censure, in which case the cause must be stated, and furthermore should clearly mention what acts are prohibited. The suspended cleric may appeal to the next higher superior. An important change is that it may be imposed for public offences, if: (a) the crime is revealed to the ordinary by unexceptionable witnesses, who alone can prove it and who cannot be induced to give evidence in court; or (b) when the cleric himself prevents the judicial investigation from being held or completed; or (c) if the judicial process would involve a conflict with the civil law or grave danger of scandal. It rests with the bishop in his discretion and charity to reveal the cause or crime to the cleric (can. 2186-93).

**Synod** (C. E., XIV-388), *add*: Diocesan synods need in future be held only every five years (can. 356). Among those who are to be summoned to attend and who should be present are abbots and one superior of each clerical religious order or congregation (can. 358).

## T

**Time, COMPUTATION OF.**—In reckoning time the following regulations have been laid down in the Code, can. 31-4. A day consists of twenty-four continuous hours beginning at midnight; a week, of seven days; a month means thirty and a year three hundred and sixty-five days, unless it is stated that they are to be taken as in the calendar. The requirements of the local civil law as to the time for fulfilling contracts are to be observed unless the contrary is expressly laid down.

The time of day is to be reckoned by local custom, but if there is question of saying Mass privately, reading the Office privately, receiving Holy Communion, or observing the fast or abstinence, one may also follow the true or mean local time, or the regional or other extraordinary legal time.

If a month or year is expressly or equivocally mentioned, e.g., the month of February, next year, it is to be taken as in the calendar. If the exact time at which anything begins is mentioned neither expressly nor implicitly, e.g., suspension from saying Mass for a month or two years, three months vacation each year, etc., the time is to be reckoned from moment to moment, and if continuous, as in the first example, the months and years are to be taken as in the calendar; if the time is not continuous, week, month and year mean seven, thirty and three hundred and sixty-five days respectively. If the time consists of several days, or one or more weeks, months, or years and the term from which a period is reckoned is mentioned expressly or implicitly: (a) months, and years are taken as in the calendar; (b) if the term coincides with the beginning of the day, e.g., two months'

vacation from 15 August, the computation begins with the first date mentioned, the term ending at the beginning of the last day of the same number; (c) if the term from which a period is reckoned does not coincide with the beginning of a day, e.g., the fourteenth year of age, a year's novitiate, eight days after the death of a bishop, the first day is not counted and the term finishes at the end of the last day of the same number; (d) if the month has no corresponding number, e.g., one month from 30 January, the term will end with the beginning or the end of the last day of the month as the case may be; (e) where acts of the same kind are to be repeated at stated times, e.g., three years to perpetual profession after temporary profession, three years to a new election, the time finishes on the same monthly date as that on which it began, but the new act may be performed at any time that day.

**Transaction.**—If a contentious controversy arises affecting only the private interests of the parties to the dispute, the judge, in order to avoid litigation when possible, is directed to urge them to settle it out of court, if that seems feasible, by transaction, that is a friendly arrangement, under the guidance of a priest, preferably one of the synodal judges, in accordance with the regulations of the civil law where that is not contrary to Divine or ecclesiastical law or the enactments of the Code. Transaction is not valid, however, when there is question of crime, dissolving the marriage bond, titles to benefices, or spiritual interests closely connected with temporalities (can. 1925-27).

# V

**Viaticum** (C. E., XV-397), *add*: If a person has received Holy Communion and later, on the same day, falls into danger of death he is to be urged strongly to receive the Holy Eucharist again. as Viaticum, and it is both lawful and fitting while he remains in danger of death for him to receive the Holy Viaticum several times on different days with his confessor's approval. It should be received by the faithful according to their own Rite, but in case of necessity any Rite is permissible (can. 864; 866).

**Vicar** (C. E., XV-401), *add*: When a parish has been fully (*pleno jure*) united to a religious house, a capitular church or other moral person, a vicar should be appointed for the actual cure of souls, and should receive suitable compensation. Except when there is a legitimate privilege or custom to the contrary he should be presented by the religious superior, the chapter, or moral person, and be instituted by the local ordinary if found fitted by him. Whether he is a secular or religious his rights and duties while holding office are the same as those of a parish priest, and he can be removed only under like conditions (can. 472). As soon as a parish is vacant a vicar œconomus should be appointed by the local ordinary with a suitable salary; before his appointment, the government of the parish, if no other provision has been made, is to be taken over by the first vicar co-operator, or, if there are several, by the one who has held office longest; if there are no vicars, one of the nearest parish priests takes charge, the ordinary having decided beforehand which of them should do so; if the parish is under the care of a religious, his house should act. Those who are thus empowered to take charge must notify the local ordinary of the vacancy immediately. The vicar œconomus has the same rights and duties as a parish priest in the matter of the cure of souls, but may not act to the detriment of the rights of the parish priest or of the parochial benefice. An œconomus must in presence of the vicar forane or other priest named by the ordinary hand over to the new parish priest or to the succeeding œconomus the key of the archives and an inventory of the books, documents, and other things belonging to the parish and give an accounting of the receipts and expenses during his administration (can. 472-73).

A vicar substitute who has been appointed during the absence of a parish priest or during an appeal to Rome when a holder has been deprived of his benefice has the rights and duties of a parish priest in the cure of souls, unless the local ordinary or parish priest has restricted them (can. 474).

A vicar assistant is to be given by the local ordinary, with a suitable salary, to a parish priest who through old age or other permanent cause is unable to fulfil his duties properly. If he fills the parish priest's place in everything, he has all his rights and duties, save the obligation of applying Mass for the people; otherwise his rights and duties are as laid down in his letter of appointment. If the parish priest is mentally competent, the assistant is to work under his directions in accord-

ance with the instructions contained in the letter of the ordinary (can. 475).

Parochial vicars, except those acting on behalf of a moral body, if they are religious can be removed like religious parish priests; if they are seculars, they are removable at the will of the bishop or vicar capitular, but not of the vicar general without a special mandate. If the vicarship is a benefice, a vicar co-operator (see *CURATES*) can be removed according to law not only for reasons justifying the removal of a parish priest, but also for serious failure to obey the parish priest in the exercise of his office (can. 477).

**Vicar Apostolic.** See **PREFECT APOSTOLIC.**

**Vicar Capitular** (C. E., XV-401), *add*: When an episcopal vacancy occurs, only one vicar capitular can be chosen by the chapter, otherwise the election would be invalid, any custom to the contrary being reprobated; the candidate must be chosen by an absolute majority of the valid votes cast. He must be a priest, at least thirty years old, and must not have been elected, nominated, or presented to the vacant see, otherwise his selection would be invalid, and the metropolitan or, if he is dead, the senior bishop of the province on learning the facts would have to appoint the vicar for that occasion (can. 433-34). He obtains jurisdiction the moment he makes his profession of faith and requires no confirmation; he is bound by the law of residence and must apply Mass for the people, like a bishop; he receives a salary the amount of which is fixed by a provincial council or custom; if he is a bishop he enjoys the honorary privileges of a titular bishop, otherwise he has those of a titular Apostolic protonotary (can. 439-41).

**Vicar General** (C. E., XV-402), *add*: A vicar general must not be less than thirty years old, formerly the minimum age was twenty-five. The office of vicar general is not to be conferred on the canon penitentiary or a relative of the bishop, especially in the first degree or the second combined with the first, or except in case of necessity on a parish priest or other cleric having the cure of souls (can. 367). Vicars general now rank as local ordinaries (can. 198); they possess ordinary episcopal jurisdiction throughout the diocese in virtue of their office, except in matters which the bishop has reserved to himself or for which the law requires a special episcopal mandate (can. 369). This mandate is needed: to excommunicate or incardinate clerics, provide for ecclesiastical offices, convoke diocesan synods, nominate or institute parish priests, remove parochial vicars, erect pious associations, reserve sins, grant dimissorial letters, authorize marriages of conscience, consecrate places, authorize the erection of a church, declare relics authentic or permit the sale of sacred relics when the proof of their authenticity has perished, fix the honorarium to be paid to poor churches by those celebrating Mass there, erect, unite or collate benefices,



grant canonical institution or authorize a change of benefice, inflict ecclesiastical penalties or remit a penalty imposed by a vicar general as judge, or absolve excommunicated apostates, heretics, or schismatics, after their offence has been brought to the external forum of the local ordinary.

A vicar general has the right of precedence, both in public and private, over all the other diocesan clergy, not excluding the cathedral dignitaries and canons, even in choir and in capitular sessions, unless where a cleric has received episcopal consecra-

tion and the vicar general has not; the vicar during his term of office has a right to the privileges and insignia of a titular prothonotary Apostolic, and if he is a bishop to the honorary privileges of a titular bishop (can. 370).

**Vows** (C. E., XV-511), *add*: The only private vows reserved to the Holy See are those of perfect perpetual chastity and of entering a religious institute with solemn vows, made unconditionally, after the age of eighteen-(can. 1309).



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